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For information on briefing in Boston, MA, see announcement on the inside cover of this issue.

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

**WHO:** The Office of the Federal Register.

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

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

### BOSTON, MA

**WHEN:** April 16, at 9:00 a.m.
**WHERE:** Thomas P. O'Neill Federal Building Auditorium.
10 Causeway Street,
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**RESERVATIONS:** Call the Boston Federal Information Center, 617–565–8129

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**Reader Aids**
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

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

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

### 8 CFR Parts 103, 242, and 287

[INS No. 1272-90]

### Powers and Duties of Service Officers; Proceedings To Determine Deportability of Aliens in the United States; Apprehension, Custody, Hearing and Appeal

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Final rule.

**SUMMARY:** This rule amends part 103, part 242 and part 287 of 8 CFR to grant authority to issue orders to show cause, and subpoenas, and to permit aliens to depart voluntarily from the United States, to Directors of Service Centers, and to Assistant District Directors for Examinations. This change will provide for expeditious processing of alien requests for relief from deportation under Part 242.

**EFFECTIVE DATE:** This rule is effective April 5, 1990.

**FOR FURTHER INFORMATION CONTACT:** Janet M. Charney, Deputy Assistant Commissioner, Legalization Programs, Immigration and Naturalization Service, 425 I Street NW., room 5250, Washington, DC 20536, (202) 786-3658.

**SUPPLEMENTARY INFORMATION:** On February 2, 1990, the Commissioner of the Immigration and Naturalization Service announced that he was exercising his discretionary authority to grant Voluntary Departure under 8 CFR 242.5 to legalization-ineligible spouses and children of recently legalized aliens, pending availability of a permanent resident visa number, to avoid separation of family members by deportation. The separation of these family members is regarded as a compelling factor under 8 CFR 242.5(a)(2)(viii). This policy is referred to as the "Family Fairness Policy."

To better serve the public, provide a clearer basis for exercise of discretionary authority under this part, and to provide for expeditious processing of alien requests for relief from deportation under this section, the Service has decided to expand authority to permit aliens to depart voluntarily from the United States to Directors of the Service's Service Centers and Assistant District Directors for Examinations. In addition, to complement this change, 8 CFR 242.1(a) is being amended to expand authority to issue an Order to Show Cause to the Directors of the Service Centers. Title 8 CFR 287.4(a) is also being amended to give authority to the Directors of the Service's Service Centers and Assistant District Directors for Examinations to issue subpoenas. Related amendments are also being made to 8 CFR 103.1. These changes will also further Service exercise of its authority under the Family Fairness Policy.

Compliance with 5 U.S.C. 533 as to notice of proposed rulemaking is unnecessary because this rule relates to agency management.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule does not have a significant adverse effect on a substantial number of small entities. This rule is not a major rule within the meaning of 1(b) of E.O. 12291, nor does this rule have federalism implications warranting preparation of a Federal Assessment in accordance with Executive Order 12612.

**List of Subjects**

*8 CFR Part 103*

Aliens, Delegation of authority, Fees, Availability of service records.

*8 CFR Part 242*

Administrative practice and procedure, Aliens.

*8 CFR Part 287*

Administrative practice and procedure, Aliens, Subpoenas, Deportation.

Accordingly, parts 103, 242, and 287 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

## PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 is revised to read as follows:

Authority: 5 U.S.C. 552, 552a; 8 U.S.C. 1101, 1103, 1201, 1304; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557; 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

**§ 103.1 [Amended]**

2. Section 103.1(s) is amended by replacing the "." at the end of the paragraph with a ";" and inserting the phrase "and to exercise the authorities under §§ 242.1(a), 242.7, and 287.4 of this chapter without regard to geographical limitations."

## PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

3. The authority citation for part 242 continues to read as follows:

Authority: 8 U.S.C. 1103, 1186a, 1251, 1252, 1254, 1362.

**§ 242.1 [Amended]**

4. Section 242.1, is amended by removing the "or" at the end of paragraph (a)(15), by replacing the "." with a "; or" at the end of paragraph (a)(16) and by adding paragraph (a)(17) to read as follows:

**§ 242.1 Order to show cause and notice of hearing.**

(a) * * *

(17) Service center directors.

**§ 242.5 [Amended]**

5. In § 242.5, paragraph (a)(1) is amended by removing the word "and" immediately after the phrase "officers in charge," removing the "." at the end of the paragraph, and inserting the phrase ", and service center directors, and assistant district directors for Examinations." immediately after the phrase "chief patrol agents."

## PART 287—FIELD OFFICERS; POWERS AND DUTIES

6. The authority citation for part 287 continues to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1225, 1226, 1251, 1252, 1357; 8 CFR part 2.

**§ 287.4 [Amended]**

7. In § 287.4, paragraph (a)(1) is amended by replacing the word "and" with a "," immediately after the phrase "Supervisory Criminal Investigators (Anti-Smuggling)", and inserting the phrase "Service Center Directors, and Assistant District Directors for Examinations," immediately after the phrase "Regional Directors, Office of Professional Responsibility,".

Dated: March 16, 1990.

**Michael T. Lempres,**

*Executive Commissioner, Immigration and Naturalization Service.*

[FR Doc. 90-7784 Filed 4-4-90; 8:45 am]

BILLING CODE 4410-10-M

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**8 CFR Parts 103, 299, and 499**

**RIN 1115-AA66**

**[INS No. 1250-90]**

## Immigration and Nationality Forms; Form G-641

**AGENCY:** Immigration and Naturalization Service (INS), Justice.

**ACTION:** Final rule.

**SUMMARY:** This rule amends the listing of fees and forms (Immigration and Nationality Forms) by removing the Form G-641, "Application for Verification of Information from Immigration and Naturalization Records", that is contained in 8 CFR parts 103, 299, and 499. The Immigration and Naturalization Service has instituted other programs, as reflected in 8 CFR 103.21, which serve as an alternative for obtaining verification of information from INS records without requiring a fee. This change will result in more timely service to the public, eliminate duplication, and provide for more efficient resource management.

**EFFECTIVE DATE:** May 7, 1990.

**FOR FURTHER INFORMATION CONTACT:** Russell Powell, Chief, FOIA/PA Section, 425 I Street NW., Washington, DC 20536, (202) 633-1722, or Nina L. Conner, Information Management Specialist, (202) 633-5365.

**SUPPLEMENTARY INFORMATION:** This final rule discontinues the use of Form G-641, "Application for Verification of Information from Immigration and Naturalization Service Records". Executive Order 12291, dated February 17, 1981, requires that the benefits to society must be maximized when reviewing existing regulations and that "* * * agencies shall set regulatory priorities with the aim of maximizing the aggregate net benefits to society * * *" Unnecessary fees were incurred by the public in requesting verification services via Form G-641 while similar services are available to the public from INS without charge.

Form G-641 was devised in response to amendments to 8 CFR part 103 pertaining to fees and request for a records search and duplication of documents contained in INS records under the Freedom of Information Act, as amended.

This form was only intended to provide a means for requestors to identify data contained in INS files which they desired INS to verify. However, the public has persisted in using the Form G-641 beyond its original intent of simple verification of information from INS records. In many instances the Form G-641 has been improperly used for the purpose of establishing employment eligibility and identity, to request the return of original documents and to serve as a substitute for a specific INS document. Often these G-641 requests were filed by the public in lieu of properly filing the correct forms established by the Service for such types of request or because other Federal, state or local government agencies had requested this verification from the individual rather than doing so directly with INS. All Federal, state, or local government agencies should now remove all references to the Form G-641 from all forms, correspondence and information dissemination to the public.

The Form G-641 was not intended to be used as a substitute document while other documents requested from INS are being prepared (i.e., Duplicate Certificate of Naturalization, I-94 replacement, etc.). Should an applicant need to have his or her status verified while awaiting receipt of replacement documents, the need for such verification can be satisfied by obtaining a copy of the document (certified, if necessary) through a request under the Freedom of Information Act (FOIA) or under the Privacy Act (PA). Individuals will be required to submit a written FOIA or PA request for a copy of the document. If required, a certified copy can be provided (there may be a fee for certified copies). The Form G-845, "Document Verification Request", has been established by INS to enable Federal, state and local entitlement agencies to verify alien registration documentation/status that cannot otherwise be verified by the INS' automated information systems. The agency requiring verification of status to obtain a benefit must use the Form G-845.

Although discontinuance of Form G-641 will also remove the means to request Form G-350, "Certification of Birth Data", no adverse impact is anticipated because requests for this document are minimal and Form G-350 appears to serve no legal purpose. Foreign born children are issued an alien registration receipt card or a citizenship document by INS and no other form of identification should be necessary from INS. The majority of applicants for Form G-350 have been adoptive parents and, in these cases, requests should be submitted to appropriate state government agencies for issuance of a form of birth certificate.

INS queried other Federal agencies about the discontinuation of the Form G-641 as to whether the provided alternate methods would meet their needs for requesting verification of information from INS records. All responses were favorable toward the elimination of Form G-641 and acceptance of the alternate methods.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because this rule removes an unnecessary fee being incurred by the public.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule is not a major rule as defined in E.O. 12291, nor is it expected to have a significant impact on a substantial number of small entities. This rule does not have federalism implications warranting the preparation of a federal assessment in accordance with E.O. 12612.

**List of Subjects**

*8 CFR Part 103*

Administrative practice and procedures, Forms, Fees.

*8 CFR Parts 299 and 499*

Forms, Reporting and recordkeeping requirements.

Accordingly, chapter 1 of title 8 of the Code of Federal Regulations is amended as follows:

## PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 continues to read as follows:

**Authority:** 5 U.S.C. 552, 552a; 8 U.S.C. 1101, 1103, 1201, 1304; 31 U.S.C. 9701; E.O. 12356; 47 FR 14874, 15557; 3 CFR 1982 Comp., p. 166; 8 CFR part 2.

§ 103.7 [Amended]

2. In § 103.7, paragraph (b)(1) is amended by removing the Form G–641 from the listing of fees.

## PART 299—IMMIGRATION FORMS

3. The authority citation for part 299 continues to read as follows:

Authority: 8 U.S.C. 1191, 1103; 8 CFR 2.

§ 299.1 [Amended]

4. Section 299.1 is amended by removing the Form G–641 from the listing of prescribed forms.

§ 299.3 [Amended]

5. Section 299.3 is amended by removing the Form G–641 from the listing of forms available from the Superintendent of Documents.

§ 299.5 [Amended]

6. Section 299.5 is amended by removing the Form G–641 from the display of control number listing.

## PART 499—NATIONALITY FORMS

7. The authority citation for part 499 continues to read as follows:

Authority: 8 U.S.C. 1103; 8 CFR part 2.

§ 499.1 [Amended]

8. Section 499.1 is amended by removing Form G–641 from the listing of prescribed forms.

Dated: February 26, 1990.

**Elizabeth Chase MacRae,**

*Associate Commissioner, Information Systems, Immigration and Naturalization Service.*

[FR Doc. 90–7786 Filed 4–4–90; 8:45 am]

BILLING CODE 4410–10–M

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## 8 CFR Part 210

[INS No. 1260–90]

## Termination of Temporary Resident Status Granted to an Alien as a Special Agricultural Worker

**AGENCY:** Immigration and Naturalization Service; Justice.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** This rule amends regulations concerning termination of temporary resident status granted to an alien as a Special Agricultural Worker necessitated by the amendment to section 210 of the Immigration and Nationality Act. This rule ensures that affected aliens are notified of the grounds alleged for termination of status and are given an opportunity to appeal any adverse decision. This rule also adds as a class of ineligible aliens those who have committed any felony or three or more misdemeanors.

**EFFECTIVE DATE:** This rule is effective April 5, 1990. Comments must be received on or before May 7, 1990.

**ADDRESSES:** Written comments should be mailed in triplicate to the Assistant Commissioner, Legalization, Immigration and Naturalization Service, 425 "I" Street NW., Washington, DC 20536 or delivered to room 5250 at the same address.

**FOR FURTHER INFORMATION CONTACT:** Janet Charney, Deputy Assistant Commissioner, Special Agricultural Worker Program (SAW), 202–786–3658.

**SUPPLEMENTARY INFORMATION:** On December 18, 1989, section 210 of the Immigration and Nationality Act was amended to expand the reasons for the termination of the status of a Special Agricultural Worker (SAW). (Immigration Nursing Relief Act of 1989, Public Law No. 101–238, section 4, 103 Stat. 2099, 2103) This rule specifies the conditions under which termination will take place and provides procedures to be used. These procedures guarantee the affected alien is notified of the grounds alleged for termination of status and is given an opportunity to appeal any adverse decision. The rule precludes the automatic adjustment to permanent residence if termination proceedings are instituted before the date of eligibility for permanent resident status. This rule also makes an alien ineligible for temporary resident status if he or she has been convicted of a felony or three or more misdemeanors. This amendment makes the adjudication process more efficient, cost effective, and consistent with the intent of the termination amendment. This rule also allows the use of the alien's records in the termination process. Since most SAW temporary residents become eligible for permanent resident status on December 1, 1990, the interim rule is being issued to allow regional processing facility directors to begin the termination process immediately, on cases identified for termination, while allowing for public comment.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have federalism implications warranting the preparation of a Federal Assessment in accordance with E.O. 12612.

This rule contains information collection requirements which have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act. The OMB control number for this collection is contained in 8 CFR 299.5.

**List of Subjects in 8 CFR Part 210**

Aliens, Permanent resident status.

Accordingly, part 210 of chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

## PART 210—SPECIAL AGRICULTURAL WORKERS

1. The authority citation for part 210 continues to read as follows:

Authority: 8 U.S.C. 1103, 1160, 8 CFR part 2.

2. Section 210.2(e)(3) is revised to read as follows:

**§ 210.2 Application for temporary resident status.**

* * * * *

(e) * * *

(3) All information furnished pursuant to an application for temporary resident status under this part including documentary evidence filed with the application shall be used only in the determination process, including a determination under § 210.4(d) of this part, or to enforce the provisions of section 210(b)(7) of the Act, relating to prosecutions for fraud and false statements made in connection with applications, as provided in paragraph (e)(4) of this section.

* * * * *

3. Section 210.3 is amended by replacing the "." at the end of paragraph (d)(2) with a ";" and by adding a new paragraph (d)(3) to read as follows:

**§ 210.3 Eligibility.**

* * * * *

(d) * * *

(3) An alien who has been convicted of a felony, or three or more misdemeanors.

* * * * *

4. In § 210.4 paragraph (d)(2) is revised and a new paragraph (d)(3) is added to read as follows:

**§ 210.4 Status and benefits.**

* * * * *

(d) * * *

(2) The status of an alien lawfully admitted for temporary residence under section 210(a)(2) of the Act, may be terminated before the alien becomes eligible for adjustment of status under § 210.5 of this part, upon the occurrence of any of the following:

(i) It is determined by a preponderance of the evidence tha' the

adjustment to temporary resident status was the result of fraud or willful misrepresentation as provided in section 212(a)(19) of the Act;

(ii) The alien commits an act which renders him or her inadmissible as an immigrant, unless a waiver is secured pursuant to § 210.3(e)(2) of this part;

(iii) The alien is convicted of any felony, or three or more misdemeanors in the United States.

(3) *Procedure.* (i) Termination of an alien's status under paragraph (d)(2) of this section will be made only on notice to the alien sent by certified mail directed to his or her last known address, and to his or her representative. The alien must be given an opportunity to offer evidence in opposition to the grounds alleged for termination of his or her status. Evidence in opposition must be submitted within thirty (30) days after the service of the Notice of Intent to Terminate. If the alien's status is terminated, the director of the regional processing facility shall notify the alien of the decision and the reasons for the termination, and further notify the alien that any Service Form I–94, Arrival-Departure Record or other official Service document issued to the alien authorizing employment and/or travel abroad, or any Form I–688, Temporary Resident Card previously issued to the alien will be declared void by the director of the regional processing facility within thirty (30) days if no appeal of the termination decision is filed within that period. The alien may appeal the decision to the Associate Commissioner, Examinations (Administrative Appeals Unit) using Form I–694. Any appeal with the required fee shall be filed with the regional processing facility within thirty (30) days after the service of the notice of termination. If no appeal is filed within that period, the Forms I–94, I–688 or other official Service document shall be deemed void, and must be surrendered without delay to an immigration officer or to the issuing office of the Service.

(ii) Termination proceedings must be commenced before the alien becomes eligible for adjustment of status under § 210.5 of this part. The timely commencement of termination proceedings will preclude the alien from becoming a lawful permanent resident until a final determination is made in the proceedings, including any appeal.

Dated: March 16, 1990.

**James A. Puleo,**

*Acting Associate Commissioner, Examinations, Immigration and Naturalization Service.*

[FR Doc. 90–7787 Filed 4–4–90; 8:45 am]

BILLING CODE 4410–10–M

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

### 9 CFR Part 1

**[Docket No. 89–223]**

### Intent To Regulate Horses and Other Farm Animals Under the Animal Welfare Act; Technical Amendment of Definition

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Determination to regulate and technical amendment.

**SUMMARY:** This document gives notice that we intend to begin regulating the handling, care, treatment, and transportation of horses and other farm animals under the Animal Welfare Act (the Act). We intend to include horses used for biomedical or other nonagricultural research, and other farm animals used for biomedical or other nonagricultural research, or for nonagricultural exhibition, as regulated animals under the Act. This action is necessary to promote the humane care of these animals. We are also making a technical amendment of the definition of "animal" in the Animal Welfare regulations to add several words that were inadvertently omitted when the definition was published in the **Federal Register**. This change is necessary to clarify the intent of the definition.

**EFFECTIVE DATE:** June 4, 1990.

**FOR FURTHER INFORMATION CONTACT:** Dr. R.L. Crawford, Director, Animal Care Staff, Regulatory Enforcement and Animal Care, APHIS, USDA, Room 269, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8790.

**SUPPLEMENTARY INFORMATION:**

#### Background

The Animal Welfare Act (the Act) (7 U.S.C. 2131 *et seq.*), enacted in 1966 and amended in 1970, 1976, and 1985, authorizes the Secretary of Agriculture to promulgate standards and other requirements governing the humane handling, housing, care, treatment, and transportation of certain animals by dealers, research facilities, exhibitors, carriers, and intermediate handlers. Regulations established under the Act are contained in 9 CFR parts 1, 2, and 3.

From the time the Act was amended in 1970 (Pub. L. 91–579), the definition of the term "animal" has included "any live or dead dog, cat, monkey (nonhuman primate mammal), guinea pig, hamster, rabbit, or such other warmblooded animal, as the Secretary may determine is being used, or is intended for use, for research, testing, experimentation, or exhibition purposes, or as a pet; * * *" (7 U.S.C. 2132(g)). The following animals are excluded from the term and therefore are not covered by the Act:

"* * * horses not used for research purposes and other farm animals, such as, but not limited to livestock or poultry, used or intended for use as food or fiber, or livestock or poultry used or intended for improving animal nutrition, breeding, management, or production efficiency, or for improving the quality of food or fiber. * * *" (7 U.S.C. 2132(g)).

We are therefore authorized by the Act to regulate horses when used for biomedical or other nonagricultural research, and are authorized to regulate other farm animals when the animals are used for biomedical or other nonagricultural research, nonagricultural exhibition, or as pets. An example of agricultural exhibition would be a livestock show at a State or county fair.

To date, as a matter of policy, we have not generally enforced the Animal Welfare regulations with respect to horses and other farm animals, although the handling and care of these animals is subject to regulation under the Act. However, we have reevaluated our policy in light of the increasing use of horses and other farm animals in biomedical research and nonagricultural exhibition, and in light of comments and inquiries received from members of the public, including members of industries regulated under the Act, regarding the need to extend enforcement of the regulations to include these animals. Following our proposal to amend part 1 of the regulations, published in the **Federal Register** on March 31, 1987 (52 FR 10292–10298, Docket No. 84–010), we received more than 1,000 comments stating that the proposed definition of "animal" should encompass all warmblooded animals, including farm animals. Based on information supplied by the commenters, on information supplied by members of the public prior to publication of the proposed rule, and on our own experience enforcing the Animal Welfare regulations, we believe it is appropriate to extend our enforcement of the Animal Welfare Act

to those horses and other farm animals covered by the Act.

By so extending our enforcement, we will make our policy and that of the United States Department of Health and Human Services (HHS) more uniform. HHS provides specific instructions for the care of horses and other farm animals. They are contained in the "NIH Guide for the Care and Use of Laboratory Animals," which is issued by the Public Health Service, National Institutes of Health, to all institutions receiving funds under the Health Research Extension Act of 1985.

Therefore, in order to ensure the humane handling, care, treatment, and transportation of horses used for biomedical or other nonagricultural research, and of other farm animals used for biomedical or other nonagricultural research, nonagricultural exhibition, or as pets, we are giving notice of our intent to regulate such animals under the Act, and to regulate persons subject to the Act who maintain these animals.

Horses and other farm animals will be regulated in accordance with the standards set forth in 9 CFR part 3, subpart F—"Specifications for the Humane Handling, Care, Treatment, and Transportation of Warmblooded Animals Other Than Dogs, Cats, Rabbits, Hamsters, Guinea Pigs, Nonhuman Primates, and Marine Mammals"—until standards designed specifically for horses and other farm animals are added to the regulations.

### Request for Comments

Elsewhere in this issue of the **Federal Register**, we are publishing a document entitled "Animal Welfare—Standards for Horses and Other Farm Animals" (Docket No. 90–006), in which we give notice that we are considering establishing standards designed specifically for the humane care of horses and other farm animals under the Act. In that document, we request comments on the development of standards for the regulation of horses used for biomedical or other nonagricultural research, and of other farm animals, such as cattle, sheep, pigs, and goats, when used for biomedical or other nonagricultural research, or for nonagricultural exhibition purposes.

### Technical Amendment of Definition

Because of the inadvertent omission of several words, the definition of "animal" in part 1 of the regulations does not make it clear that horses not used for research purposes are excluded from regulation. However, such exclusion is mandated by the Animal Welfare Act. Therefore, in this document we are making a technical amendment of the definition of "animal" to make it clear that horses not used for research purposes are not covered by the regulations.

### List of Subjects in 9 CFR Part 1

Animal welfare, Animal housing, Dealers, Exhibitors, Research facilities, Humane animal handling.

Accordingly, 9 CFR part 1 is amended as follows:

## PART 1—DEFINITION OF TERMS

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

**Authority:** 7 U.S.C. 2131–2157; 7 CFR 2.17, 2.51, and 371.2(g).

2. In § 1.1, the definition of "animal" is revised to read as follows:

**§ 1.1 Definitions.**

* * * * *

*Animal* means any live or dead dog, cat, nonhuman primate, guinea pig, hamster, rabbit, or any other warmblooded animal, which is being used, or is intended for use for research, teaching, testing, experimentation, or exhibition purposes, or as a pet. This term excludes: Birds, rats of the genus *Rattus* and mice of the genus *Mus* bred for use in research, and horses not used for research purposes and other farm animals, such as, but not limited to livestock or poultry, used or intended for use as food or fiber, or livestock or poultry used or intended for use for improving animal nutrition, breeding, management, or production efficiency, or for improving the quality of food or fiber. With respect to a dog, the term means all dogs, including those used for hunting, security, or breeding purposes.

* * * * *

Done in Washington, DC, this 30th day of March 1990.

**James W. Glosser,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 90–7863 Filed 4–4–90; 8:45 am]

BILLING CODE 3410–34–M

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## 9 CFR Parts 71 and 82

**[Docket No. 90–047]**

## Poultry Affected by Salmonella Enteritidis

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice of extension of comment period.

**SUMMARY:** We are extending the comment period for an interim rule that amended our regulations concerning poultry and avian diseases by declaring *Salmonella enteritidis* serotype *enteritidis* to be an endemic disease and by imposing certain testing, movement, and other restrictions on certain chickens, eggs, and other articles from egg-type chicken flocks. This extension will provide interested persons with additional time to prepare comments on the interim rule.

**DATES:** Consideration will be given only to comments received on or before May 2, 1990.

**ADDRESSES:** To help ensure that your written comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 88–161. Comments may be inspected at Room 1141 of the South Building, 14th and Independence Avenue SW., Washington, DC, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

**FOR FURTHER INFORMATION CONTACT:** Dr. I. L. Peterson, Staff Veterinarian, Sheep, Goat, Equine, and Poultry Diseases Staff, VS, APHIS, USDA, Room 771, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8646.

**SUPPLEMENTARY INFORMATION:**

### Background

In an interim rule published in the **Federal Register** and effective on February 16, 1990 (55 FR 5576–5584, Docket No. 88–161) we amended our regulations concerning avian and poultry diseases by declaring *Salmonella enteritidis* serotype *enteritidis* to be an endemic disease and by imposing certain testing, movement, and other restrictions on certain chickens, eggs, and other articles from egg-type chicken flocks. On March 30, 1990, we published a technical amendment to the interim rule in the **Federal Register** (55 FR 11887, Docket No. 90–043), adding a sentence concerning test procedures that was inadvertently left out of the interim rule.

Both the interim rule and the technical amendment requested the submission of written comments on or before April 17, 1990. We have received a request from United Egg Producers for an extension of the comment period, to allow more time for review of the interim rule and preparation of comments concerning it.

In response to this request, we are extending the comment period for Docket No. 88–161 for 15 additional days. We will consider all written

comments received on or before May 2, 1990. This action will allow the requestor and all other interested persons additional time to prepare comments.

**Authority:** 21 U.S.C. 111–113, 114a, 114a–1, 115–117, 120–126, 134a, 134b, 134f; 7 CFR 2.17, 2.51 and 371.2(d).

Done in Washington, DC, this 28th day of March 1990.

**James W. Glosser,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 90–7864 Filed 4–4–90; 8:45 am]

BILLING CODE 3410–34–M

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**9 CFR Parts 91 and 92**

**[Docket No. 90–035]**

## Temporary Entry of Cattle From Mexico

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are amending the regulations regarding importation of cattle to facilitate the temporary entry under United States Customs bond of certain cattle from Mexico that will be held temporarily in quarantined feedlots in the United States and then returned to Mexico for slaughter. These cattle will be exempted from requirements for herd testing in Mexico for tuberculosis and brucellosis that normally apply to cattle imported from Mexico. Steers from Mexico imported for temporary feeding and return to Mexico will also be exempted from the "M" brand requirement normally applied to steers imported from Mexico. Brucellosis-vaccinated cattle under 24 months of age imported from Mexico for temporary feeding and return to Mexico will also be exempted from undergoing brucellosis testing normally required for all cattle imported from Mexico. The cattle will be required to be removed from the quarantined feedlot only for direct return to Mexico for slaughter. All the cattle will be exempted from certain certification and testing requirements normally applied to cattle exported to Mexico from the United States. This action is considered necessary to mitigate the effects of a severe drought in Mexico that has caused loss of cattle pasture and feed to the extent that a large number of Mexican cattle are threatened with starvation. This action will facilitate the expedited safe entry into the United States of Mexican cattle for temporary stay and feeding.

**DATES:** Interim rule effective on March 30, 1990. Consideration will be given only to comments received on or before June 4, 1990.

**ADDRESSES:** To help ensure that your written comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 90–035. Comments received may be inspected at USDA, room 1141, South Building, 14th and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

**FOR FURTHER INFORMATION CONTACT:** Dr. Sam Richeson, Senior Staff Veterinarian, IEAS, VS, APHIS, USDA, room 759, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8144.

**SUPPLEMENTARY INFORMATION:**

### Background

The regulations in 9 CFR part 92, referred to below as the regulations, govern the importation into the United States of specified animals and animal products, to prevent the introduction into the United States of various diseases, including tuberculosis, brucellosis, and splenetic, southern and tick fevers.

All cattle imported from Mexico must be presented to a veterinary inspector at the port of entry for inspection, and generally must be accompanied by certificates of a full time salaried veterinarian of the national government of Mexico containing declarations regarding the animals' status under the following provisions of the regulations for various pests and diseases: (1) Cattle fever ticks, in accordance with § 92.35(b); (2) tuberculosis, in accordance with § 92.35(c); and (3) brucellosis, in accordance with § 92.35(d). There are certain exceptions to these certification requirements for steers, spayed heifers, animals under six months of age, and animals imported for immediate slaughter. Also, except for animals imported in bond for transit and immediate return to Mexico as well as animals imported for immediate slaughter, any cattle imported from Mexico may be detained at the port of entry and subjected to disinfection, blood or other tests, and dipping required by the regulations to determine their freedom from communicable disease and ticks.

We are adding provisions to the regulations to allow cattle from Mexico to enter the United States for temporary feeding and return to Mexico under the following conditions. The cattle may enter the United States if they enter under United States Customs bond, are moved directly from the port of entry to a quarantined feedlot approved by the United States Department of Agriculture (USDA) and the State in which the quarantined feedlot is located, and leave the feedlot only for direct return to Mexico. Movement of the cattle from the port of entry to the quarantined feedlot, and return movement to Mexico, must be by railway cars or trucks sealed by a USDA official. Cattle from Mexico entering the United States under these conditions must be presented to a veterinary inspector at the port of entry for inspection, and must meet the certification and dipping requirements for fever ticks contained in § 92.35(b) and the certification and testing requirements of § 92.35(c) for tuberculosis and § 92.35(d) for brucellosis, with the exception that the cattle need not meet the herd test requirements of §§ 92.35 (c)(1) and (d)(1). These herd test requirements normally require that the herds from which imported Mexican cattle originate must test negative for tuberculosis not more than 12 months nor less than 3 months before the date the animals are offered for entry, and must test negative for brucellosis not more than 90 days nor less than 30 days before the date the animals are offered for entry.

We are also exempting steers and brucellosis-vaccinated cattle imported from Mexico for temporary feeding and return to Mexico from certain other requirements of the regulations. Steers are exempted from the requirement of § 92.35(c)(2) that Mexican steers be "M" branded. We are waiving the requirement for "M" branding of steers, because this brand only serves to identify the Mexican origin of steers that enter U.S. market channels. Since all Mexican cattle will be returned to Mexico, there is no need to identify the animals not entering U.S. market channels.

We are also exempting cattle from Mexico that have been vaccinated for brucellosis and are under 24 months of age at the time of importation into the United States from the requirements of § 92.35(d)(2) for brucellosis testing at the port of entry. We are waiving the requirement for brucellosis testing for Mexican cattle under 24 months of age that have been vaccinated for brucellosis, because vaccinated cattle under this age may show false positives to the brucellosis test. The former regulations required brucellosis testing for all cattle from Mexico except steers

because normally very few brucellosis vaccinated cattle are presented for importation from Mexico, and vaccinated cattle were not specifically addressed in the regulations. However, we anticipate that a significant number of brucellosis vaccinated cattle under 24 months of age will enter the United States for temporary stay and feeding under this regulation, and we do not want to impose unnecessary brucellosis testing on this large number of cattle. At this time we are waiving the port of entry brucellosis test requirement only for vaccinated cattle under 24 months of age imported in accordance with this interim rule; however, we intend to propose changes to part 92 in the future that will address generally exemptions from brucellosis testing for vaccinated cattle.

Any Mexican cattle may be imported into the United States with the exemptions described above, if they are imported under U.S. Customs bond, are moved from the port of entry directly to a quarantined feedlot, are removed from the quarantined feedlot only for direct return to Mexico for slaughter, and are moved from the port of entry to the quarantined feedlot, and from the quarantined feedlot to the Mexican port of entry, only in trucks or railway cars sealed with a seal applied by a United States Department of Agriculture inspector.

We are adding these provisions to simplify the process of moving large numbers of Mexican cattle to United States feedlots for feeding and return to Mexico. A recent drought in Mexico has caused a loss of winter pasture and a lack of sufficient feed for large numbers of cattle.

The government of Mexico has requested that the Animal and Plant Health Inspection Service (APHIS), USDA, change its regulations to facilitate the movement of Mexican cattle to feedlots in the United States, where they can be fed and later returned to Mexico. We believe the regulations can be changed to accomplish this purpose by waiving certain existing requirements for the entry of Mexican cattle and establishing alternative requirements for the movement and confinement of the cattle while they are in the United States and for the export of the cattle to Mexico.

We are waiving herd test requirements because these tests must be done at least 3 months prior to importation (for the tuberculosis test) and at least 30 days prior to importation (for the brucellosis test), and requiring these tests in this case would make it impossible to import the cattle in time to prevent their starvation. In lieu of the herd tests, the requirements for tuberculosis and brucellosis testing at the port of entry will ensure that Mexican cattle imported for temporary feeding and return to Mexico are free from brucellosis and tuberculosis.

The new movement and confinement requirements we are establishing for these cattle will ensure that the cattle will be handled in the United States in a way that will prevent them from entering normal market channels and will ensure their return to Mexico. Since the cattle are entering under U.S. Customs Service bond, Customs Service requirements will also apply to the cattle, to ensure that they are secured while in the United States and will be returned to Mexico according to the bond conditions.[1]

We are also amending the regulations in 9 CFR part 91 that contain requirements for the testing of cattle exported from the United States to Mexico. Prior to the effective date of this document, § 91.3 required animals exported to Mexico to be accompanied by an origin health certificate, and § 91.5 required cattle exported to Mexico to be tested and found negative for brucellosis and tuberculosis and treated for ectoparasites prior to export, and required that certifications to this effect be recorded on an origin health certificate accompanying the cattle. The Government of Mexico has indicated that it will not require such certification for cattle reentering Mexico after being imported into the United States for temporary stay and feeding. Therefore, we are amending §§ 91.3 and 91.5 to exempt cattle imported into the United States for temporary stay and feeding from the testing, treatment, and origin health and other certification requirements of §§ 91.3 and 91.5.

### Emergency Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the unnecessary starvation of Mexican cattle suffering the effects of severe drought in Mexico. If not alleviated, the drought situation in Mexico could cause the direct loss of approximately 10,000 Mexican cattle and could also have significant effects of the general health of Mexican cattle herds, since starved animals are severely stressed and are more likely to be affected by and spread a variety of communicable diseases. Since the United States imports over 600,000 Mexican cattle annually, there is good cause for action to alleviate the impacts of the drought before they could affect the number or quality of cattle available for export to the United States.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these conditions, there is good cause under 5 U.S.C. 553 for making this interim rule effective upon signature. We will consider comments that are received within 60 days of publication of this interim rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**, including discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

### Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause 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.

This action establishes a simplified procedure for the temporary importation, feeding, and return to Mexico of Mexican cattle. The primary economic effects of this rule will be in the form of economic benefits to Mexican cattle owners, who will be able to take advantage of feeding in the United States to bring their cattle to full market weight, instead of slaughtering them before they reach full weight. Some economic benefits will also accrue to a small number (under 20) of United States quarantined feedlots, many of which are small entities, that will house and feed the cattle during their stay in the United States. A small secondary benefit may also accrue to United States importers of Mexican beef, by slightly increasing the number of full-weight Mexican cattle available for slaughter.

As an alternative to this action, we considered encouraging the owners of

[1] Applicable regulations of the United States Customs Service concerning movement in bond are contained in 19 CFR 10.31 through 10.40.

Mexican cattle to import feed for their cattle into Mexico; however, the importation of cattle for feeding in the United States is more economically efficient, because the feed efficiency of cattle is low. At least nine pounds of cattle feed is required to produce one pound of on-foot beef in cattle, and the expense of importing and distributing sufficient feed for the cattle in question would be greater than the economic benefit achieved through the resulting weight gain.

We anticipate that no more than approximately 10,000 Mexican cattle will be imported this year for temporary feeding and return to Mexico in accordance with this rule. These cattle will be maintained in feedlots until their return to Mexico. The importation of 10,000 additional cattle is expected to have no significant economic impact on businesses or small entities, and will not represent significant competition for feedlot resources. In comparison, the number of cattle imported from Mexico for all purposes in 1989 was 615,067, and the number of cattle raised for slaughter in Texas (the State where most cattle imported in accordance with this rule will be held for temporary feeding) in 1988 was approximately 6,200,000.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

**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**

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

**List of Subjects**

*9 CFR Part 91*

Animal diseases, Animal welfare, Exports, Livestock and livestock products, Transportation.

*9 CFR Part 92*

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

Accordingly, 9 CFR parts 91 and 92 are amended as follows:

## PART 91—INSPECTION AND HANDLING OF LIVESTOCK FOR EXPORTATION

1. The authority citation for part 91 continues to read as follows:

**Authority:** 21 U.S.C. 105, 112, 113, 114a, 120, 121, 134b, 134f, 612, 613, 614, 618; 46 U.S.C. 466a, 466b; 49 U.S.C. 1509(d); 7 CFR 2.17, 2.51, and 371.2(d).

**§ 91.3 [Amended]**

2. In § 91.3, the second sentence of paragraph (a) is amended by adding the phrase ", except cattle from Mexico imported into the United States in bond for temporary feeding and return to Mexico," immediately following the word "Canada".

**§ 91.5 [Amended]**

3. In § 91.5, the introductory sentence is amended by adding the phrase ", except cattle from Mexico imported into the United States in bond for temporary feeding and return to Mexico," immediately following the word "cattle".

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

1. The authority citation for part 92 continues to read as follows:

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

2. In § 92.1, the following definition is added in alphabetical order:

**§ 92.1 Definitions.**

* * * * *

*Moved directly.* Moved without unloading and without stopping except for refueling, or for traffic conditions such as traffic lights or stop signs.

* * * * *

**§ 92.31 [Amended]**

3. In § 92.31, paragraph (b), the phrase "§ 92.35(e)(2), or pursuant to" is added immediately following the phrase "pursuant to".

**§ 92.33 [Amended]**

4. In § 92.33, paragraph (a), first sentence, "or in bond for temporary entry in accordance with § 92.35(e) of this part," is added immediately folowing the phrase, "return to Mexico".

5. In § 92.35, paragraph (c)(2), the phrase "or in bond for temporary entry in accordance with § 92.35(e) of this part" is added immediately following the phrase "§ 92.40 of this part".

6. In § 92.35, a new paragraph (e) is added to read as follows:

**§ 92.35 Cattle from Mexico.**

(e) *Cattle imported in bond for feeding and return to Mexico.* Cattle from Mexico may be imported into the United States under United States Customs bond [1] for feeding and return to Mexico for slaughter in accordance with the following requirements.

(1) Cattle from Mexico may be imported for feeding and return to Mexico without meeting the requirements of § 92.35(c)(1) of this part regarding herd tests for tuberculosis and without meeting the requirements of § 92.35(d)(1) of this part regarding herd tests for brucellosis, if the cattle:

(i) Are moved directly from the port of entry to a quarantined feedlot approved in accordance with § 78.1 of this chapter;

(ii) Are removed from the quarantined feedlot only to be moved directly to a Mexican port of entry for return to Mexico for slaughter; and

(iii) Are moved from the port of entry to the quarantined feedlot, and from the quarantined feedlot to the Mexican port of entry, only in trucks or railway cars sealed with a seal applied by a United States Department of Agriculture inspector.

(2) Cattle from Mexico may be imported in accordance with this paragraph without the official record of negative brucellosis test required by § 92.31(b) of this part, and without meeting the requirements of § 92.35(d) of this part, if the cattle are under 24 months of age at the time of importation and are accompanied by a certificate of a salaried veterinarian of the Mexican Government stating that the cattle have been vaccinated for brucellosis.

Done in Washington, DC, this 30th day of March 1990.

**James W. Glosser,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 90–7865 Filed 4–4–90; 8:45 am]

BILLING CODE 3410-34-M

[1] Applicable regulations of the United States Customs Service concerning movement in bond are contained in 19 CFR 1031 through 1040.

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 205

[Reg. E; EFT-2]

### Electronic Fund Transfers; Update to Official Staff Commentary

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Official staff interpretation.

**SUMMARY:** The Board is publishing in final form changes to the official staff commentary to Regulation E (Electronic Fund Tranfers). The commentary applies and interprets the requirements of Regulation E and is a substitute for individual staff interpretations of the regulation. The revision addresses questions that have arisen about the requirements of the regulation relating to the revocation of authority for preauthorized transfers.

**EFFECTIVE DATE:** April 1, 1990.

**FOR FURTHER INFORMATION CONTACT:** Contact Mary Jane Seebach or Kurt Schumacher, Staff Attorneys, Division of Consumer Affairs, at (202) 452-3667 or (202) 452-2412. For the hearing-impaired only, contact Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf, at (202) 452-3544. Board of Governors of the Federal Reserve System, Washington, DC 20551.

**SUPPLEMENTARY INFORMATION:** (1) *General.* The Electronic Fund Transfer Act (15 U.S.C. 1693 *et seq.)* governs any transfer of funds that is electronically initiated and that debits or credits a consumer's account. This statute is implemented by the Board's Regulation E (12 CFR part 205).

The Board has published an official staff commentary (Sup. II to 12 CFR part 205) to interpret the regulation. The commentary is designed to provide guidance to financial institutions and others in applying the regulation to specific situations. The commentary is updated periodically to address significant questions that arise. This notice contains the eighth update, which was proposed for comment on November 15, 1989. The revisions are effective April 1, 1990.

(2) *Description of revisions.* Following is a brief description of the revision to the commentary.

*Section 205.10—Preauthorized Transfers*

Question 10–19.5

Question 10–19.5 addresses the situation where a consumer revokes authorization for preauthorized debits initiated by a designated payee-originator. The question clarifies that when an account-holding financial institution is instructed by the consumer that an earlier authorization is not longer valid, it must block future payments to the payee-originator in keeping with the consumer's instructions.

The title has been revised to make clear that this pertains only to the revocation of authorization for all subsequent debits by a given payee-originator, and not to a consumer's order to stop payment of a particular debit, which is described in Question 10–19.

### List of Subjects in 12 CFR Part 205

Banks, Banking, Consumer protection, Electronic fund transfers, Federal Reserve System, Penalties.

(3) *Text of revisions.* Pursuant to authority granted in section 904 of the Electronic Fund Transfers Act, 15 U.S.C. 1693b, the Board amends the official staff commentary to Regulation E (12 CFR part 205, Supp. II) as follows:

1. The authority citation for part 205 continues to read:

**Authority:** Pub. L. 95-603, 92 Stat. 3730 (15 U.S.C. 1693b).

2. Comment 10–19.5 Q is added to read as follows:

*10–19.5 Q:*

*Preauthorized Debits—Revocation of Authorization.* A consumer authorizes a designated payee to originate electronic fund transfers from the consumer's account. The consumer later revokes that authorization, and instructs the account-holding financial institution to block all subsequent debits initiated by that payee-originator. Must the financial institution comply with the consumer's instructions, or may it wait for the originator to cease the initiation of automatic debits?

A: Since the financial institution has been notified that the consumer's authorization is not longer valid, the institution must block all future debits transmitted by that payee-originator. The financial institution may confirm that the consmer has informed the payee-originator of the revocation. The institution may also require a copy of the consumer's revocation.

Board of Governors of the Federal Reserve System, March 29, 1990.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 90-7707 Filed 4-4-90; 8:45 am]

BILLING CODE 6210-01-M

## DEPARTMENT OF COMMERCE

### Bureau of Export Administration

### 15 CFR Part 799

[Docket No. 91298-0076]

### West-West Decontrol of Certain Low Capacity Hard Disk Drives

**AGENCY:** Bureau of Export Administration, Commerce.

**ACTION:** Final rule.

**SUMMARY:** This final rule removes the validated export licensing requirements from exports to noncontrolled countries of certain low capacity hard disk drives controlled under Export Control Commodity Number (ECCN) 1565A in the Commodity Control List (Supplement No. 1 to § 799.1 of the Export Administration Regulations). This action is in accordance with a positive determination of foreign availability under section 5(f) of the Export Administration Act of 1979, as amended. Notice of the determination was published in the **Federal Register** on January 3, 1990 (55 FR 163). The net effect of this rule will be to reduce the number of export license applications submitted for this equipment.

**EFFECTIVE DATE:** This rule is effective April 5, 1990.

**FOR FURTHER INFORMATION CONTACT:** Randolph Williams, Office of Technology and Policy Analysis, Bureau of Export Administration, U.S. Department of Commerce, Washington, DC 20230, Telephone: (202) 377-0708.

**SUPPLEMENTARY INFORMATION:**

### Background

The Bureau of Export Administration maintains the Commodity Control List (CCL), which identifies those items subject to Department of Commerce export controls. This final rule amends the validated license controls on certain hard disk described in ECCN 1565A of the CCL.

As a result of this regulatory action, exports of hard disk drives no longer require a validated license to any destination in Country Group T or V (except the People's Republic of China and Afghanistan), provided that they do not exceed any of the following technical performance characteristics described in the *Validated License Required* paragraph for ECCN 1565A:

(1) A "gross capacity" of 440 million bits (55 Megabytes, unformatted);

(2) A "maximum bit transfer rate" of 5.2 million bits per second; or

(3) An "access rate" of 40 accesses per second.

A validated license continues to be required for national security reasons for exports of these disk drives to destinations in Country Groups Q, S, W, Y, and Z, the People's Republic of China, and Afghanistan.

The Bureau of Export Administration has intitiated action to implement a West-East decontrol of the hard disk drives affected by this rule.

**Rulemaking Requirements**

1. This rule complies with Executive Order 12291 and Executive Order 12661.

2. This rule involves a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under Control Number 0694–0005.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. Section 13(a) of the Export Administration Act of 1979, as amended (EAA) (50 U.S.C. app. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Section 13(b) of the EAA does not require that this rule be published in proposed form because this rule does not impose a new control. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

5. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Willard Fisher, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

**List of Subjects in 15 CFR Part 799**

Exports, Reporting and recordkeeping requirements.

Accordingly, part 799 of the Export Administration Regulations (15 CFR parts 730–799) is amended as follows:

1. The authority citation for 15 CFR part 799 continues to read as follows:

**Authority:** Public Law 96–72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Public Law 97–145 of December 29, 1981, by Public Law 99–64 of July 12, 1985, and by Public Law 100–418 of August 23, 1988; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Public Law 95–223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Public Law 99–440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

**PART 799—[AMENDED]**

**Supplement No. 1 to § 799.1 [Amended]**

2. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1565A is amended by revising the *Validated License Required* paragraph to read as follows:

**1565A Electronic computers, "related equipment," equipment or systems containing electronic computers; and specially designed components and accessories for these electronic computers and "related equipment".**

* * * * *

**Controls for ECCN 1565A**

* * * * *

*Validated License Required:* Country Groups QSTVWYZ, except as provided for low-level machine-vision systems and certain disk drives below.

*Low-level machine-vision systems.* A validated license is *not* required to destinations in Country Groups T and V (except the People's Republic of China and Afghanistan) for low-level machine-vision systems controlled under paragraph (h) that do not exceed any of the following:

(a) Total number of image elements—65,536;

(b) Shades of gray—256 (no colors); or

(c) Frames per second—3.3.

*Disk drives.* A validated license is not required to destinations in Country Groups T and V (except the People's Republic of China and Afghanistan) for disk drives that do not exceed any of the following characteristics:

(a) A "gross capacity" of 440 million bits (55 Megabytes, unformatted);

(b) A "maximum bit transfer rate" of 5.2 million bits per second; or

(c) An "access rate" of 40 accesses per second.

* * * * *

Dated: March 28, 1990.

**James M. LeMunyon,**

*Deputy Assistant Secretary for Export Administration.*

[FR Doc. 90–7717 Filed 4–4–90; 8:45 am]

BILLING CODE 3510–DT–M

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

### 30 CFR Part 914

### Indiana Permanent Regulatory Program

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

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** OSM is announcing the approval of a proposed amendment to the Indiana regulatory program (hereinafter referred to as the Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment consists of proposed changes to the Indiana program concerning blasting, and is intended to provide the statutory authority to allow the director to, if invited, enter upon a blasting complainant's property to investigate a complaint.

**EFFECTIVE DATE:** April 5, 1990.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard D. Rieke, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, Indiana 46204; Telephone (317) 226–6166.

**SUPPLEMENTARY INFORMATION:**



**I. Background on the Indiana Program**

The Secretary of the Interior conditionally approved the Indiana program effective July 29, 1982. Information pertinent to the general background on the Indiana program, including the Secretary's findings, the disposition of comments, and a detailed explanation of conditions of approval of the Indiana program can be found in the July 26, 1982 **Federal Register** (47 FR 32107). Subsequent actions concerning

the conditions of approval and proposed amendments are identified at 30 CFR 914.10, 914.15 and 914.16.

**II. Submission of Amendment**

By letter dated November 8, 1989, (Administrative Record No. IND–0707), the Indiana Department of Natural Resources (IDNR) submitted a proposed amendment to the Indiana program at Indiana Code (IC) 13–4.1–10. The proposed amendment is part of Indiana's 1989 House Enrolled Act No. 1069, and adds a section 3 to IC 13–4.1–10 which allows the director, after receiving a complaint about blast related property damage, to, if invited, enter upon the blasting complainant's property to investigate the complaint.

The remaining provisions of House Enrolled Act 1069 instruct the IDNR to perform certain tasks related to Indiana's enforcement of surface coal mining related blasting and appropriate funds to purchase blast monitoring equipment. Since these provisions do not alter the approved Indiana program, they are not State program amendments pursuant to the Federal rules at 30 CFR 732.17 and, therefore, will not be discussed here.

**III. Director's Findings**

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.17, is the Director's finding concerning the proposed amendment. The Indiana Code at IC 13–4.1–10–2(3)(B), following its Federal counterparts at section 515(b)(15)(C) of SMCRA and 30 CFR 816.67(a) of the Federal regulations, requires that blasting be conducted to prevent damage to public or private property outside the permit area. The proposed amendment authorizes the director of IDNR, after receiving a complaint about blast-related property damage, to, if invited, enter upon the blasting complainant's property to investigate the complaint. While there is no direct Federal counterpart to this provision, the Director finds that the proposed provision is not inconsistent with SMCRA and the Federal regulations and would allow the director of IDNR to carry out the requirement to prevent blasting-related property damage.

**IV. Summary and Disposition of Comments**

*Public Comments*

The public comment period and opportunity to request a public hearing announced in the December 8, 1989, **Federal Register** ended on January 8, 1990. No public comments were received and the scheduled public hearing was not held as no one requested an opportunity to provide testimony.

*Agency Comments*

Pursuant to section 503(b) of SMCRA and the implementing regulations at 30 CFR 732.17(h)(11)(i), comments were also solicited from various Federal agencies with an actual or potential interest in the Indiana program. The Environmental Protection Agency responded and stated that it had no comments on the proposed revision, and the Fish and Wildlife Service responded and stated that it has no objection to the proposed amendment.

**V. Director's Decision**

Based on the above finding, the Director is approving the Indiana program amendment as submitted by Indiana on November 8, 1989. The Federal regulations at 30 CFR part 914 codifying decisions concerning the Indiana program are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage states to bring their programs in conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

**VI. Procedural Determinations**

*National Environmental Policy Act*

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

*Executive Order No. 12291 and the Regulatory Flexibility Act*

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a regulatory impact analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

*Paperwork Reduction Act*

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

**List of Subjects in 30 CFR Part 914**

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: March 26, 1990.

**Carl C. Close,**

*Assistant Director, Eastern Field Operations.*

For the reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

**PART 914—INDIANA**

1. The authority citation for part 914 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. In § 914.15, paragraph (y) is added to read as follows:

**§ 914.15 Approval of regulatory program amendments.**

* * * * *

(y) The following amendment to the Indiana regulatory program, as submitted to OSM on November 8, 1989, is approved effective April 5, 1990: Amendment to the Indiana Code at IC 13–4.1–10–3 concerning blasting.

[FR Doc. 90–7749 Filed 4–4–90; 8:45 am]

BILLING CODE 4310–05–M

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**30 CFR Part 946**

**Virginia Regulatory Program; Bonding; Correction**

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

**ACTION:** Final rule; approval of amendment; correction.

**SUMMARY:** This document corrects the approval of amendment published on February 2, 1990 (55 FR 3588–3590), concerning an amendment to the Virginia regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

**FOR FURTHER INFORMATION CONTACT:** Mr. W. Russell Campbell, Director, Big Stone Gap Field Office, Office of Surface Mining Reclamation and Enforcement, P.O. Box 626, Room 220, Powell Valley Square Shopping Center, Route 23, Big Stone Gap, Virginia 24219; Telephone: (703) 523–4303.

**SUPPLEMENTARY INFORMATION:** The following correction is made in a final rule of approved amendment to the Virginia regulatory program as that rule

was published in the Federal Register on February 2, 1990 (55 FR 3588–3590).

1. On page 3589, second column, line 10, add the word, "not" after "does."

Dated: March 26, 1990.

**Carl C. Close,**

*Assistant Director, Eastern Field Operations.*

[FR Doc. 90–7748 Filed 4–4–90; 8:45 am]

BILLING CODE 4310–05–M

## DEPARTMENT OF DEFENSE

### Department of the Navy

### 32 CFR Part 701

### Availability of Department of the Navy Records and Publication of Department of the Navy Documents Affecting the Public

**AGENCY:** Department of the Navy, DOD.

**ACTION:** Interim rule.

**SUMMARY:** Amends 32 CFR part 701, subpart A, to comport with DOD Regulation 5400.7R of July 1989, published at 32 CFR 701.9(e)(1), on the time limit to administratively appeal an initial denial of a Freedom of Information Act (5 U.S.C. 552) request.

**EFFECTIVE DATES:** Interim rule effective April 5, 1990. Consideration will be given only to comments received on or before May 7, 1990.

**ADDRESSES:** Comments concerning this regulation may be mailed to Mrs. Gwen Aitken, Head, Privacy Act/FOIA Branch, Office of the Chief of Naval Operations (OP–09B30), room 5E521, Department of the Navy, The Pentagon, Washington, DC 20350–2000, Telephone (202) 697–1459, AUTOVON 227–1459.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Gwen Aitken, Head, Privacy Act/FOIA Branch, Office of the Chief of Naval Operations (OP–09B30), room 5E521, Department of the Navy, The Pentagon, Washington, DC 20350–2000, Telephone (202) 697–1459, AUTOVON 227–1459.

**SUPPLEMENTARY INFORMATION:** Pursuant to the authority cited below, the Department of the Navy amends 32 CFR part 701 to conform with departmental guidance. Subpart A is derived from the Secretary of the Navy instruction 5720.42 series, that implements within the Department of the Navy the provisions of DOD Directive 5400.7 and DOD Regulation 5400.7R series, Department of Defense Freedom of Information Act Program (32 CFR part 286) pertaining to action on requests for release of departmental records under the Freedom of Information Act (5 U.S.C. 552). This rule is being published by the Department of the Navy for the guidance and interest of the public in accordance with 5 U.S.C. 552(a)(1). It has been determined that invitation of public comment on these changes to the Department of the Navy's implementing instruction prior to adoption would be impractical and unnecessary, and it is therefor not required under the public rulemaking provisions of 32 CFR parts 286 and 701, subpart E. Interested persons, however, are invited to comment in writing on this amendment. All written comments received will be considered in making subsequent amendments or revisions to 32 CFR part 701, subpart A or the instruction upon which it is based. Changes may be initiated on the basis of comments received. Written comments should be addressed to Mrs. Gwen Aitken, Head, Privacy Act/FOIA Branch, Office of the Chief of Naval Operations (OP–09B30), Room 5E521, Department of the Navy, The Pentagon, Washington, DC 20350–2000. It has been determined that this final rule is not a "major rule" within the criteria specified in section 1(b) of Executive Order 12291 and does not have substantial impact on the public.

**List of Subjects in 32 CFR Part 701**

Administrative practice and procedure, Freedom of Information, Privacy.

### PART 701—AVAILABILITY OF DEPARTMENT OF THE NAVY RECORDS AND PUBLICATION OF DEPARTMENT OF THE NAVY DOCUMENTS AFFECTING THE PUBLIC

### Subpart A—Department of the Navy Freedom of Information Act Program

Accordingly, 32 CFR part 701 is amended as follows:

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

**Authority:** 5 U.S.C. 552; 5 U.S.C. 301.

2. Section 701.9(e) is revised to read as follows:

**§ 701.9 FOIA appeals.**

* * * * *

(e) Time limits for filing appeals. The initial denial authority shall advise the requester that an appeal must be filed so that it reaches the appellate authority no later than 60 days after the date of the initial denial letter. At the conclusion of this period, the case may be considered closed. When the requester is provided several incremental determinations for a single request, the time for the appeal shall not begin until the requester receives the last such notification. Initial denial authorities shall retain records concerning requests for records that are denied for 6 years from the date of the initial denial. Appellate authorities shall normally make final determinations on an appeal within 20 working days after receipt.

* * * * *

Dated: March 28, 1990.

**Sandra M. Kay,**

*Department of the Navy Alternate Federal Register Liaison Officer.*

[FR Doc. 90–7828 Filed 4–4–90; 8:45 am]

BILLING CODE 3810–AE–M

## ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

### 36 CFR Part 1155

### Statement of Organization and Procedures

**AGENCY:** Architectural and Transportation Barriers Compliance Board.

**ACTION:** Final rule.

**SUMMARY:** The Architectural and Transportation Barriers Compliance Board at its January 23, 1990 meeting adopted amendments to its Statement of Organization and Procedures which set forth the procedures for the Board and Board/committee meetings. The amendments to the Statement of Organization and Procedures were adopted to improve the orderly function of the office of the Architectural and Transportation Barriers Compliance Board as well as Board and committee operations.

The amendments to the Statement of Organization and Procedures are being published so that all affected persons will be fully informed about procedures governing the meetings and to implement the act.

**EFFECTIVE DATE:** January 23, 1990.

**FOR FURTHER INFORMATION CONTACT:** Jeffery Hill, Staff Attorney, Architectural and Transportation Barriers Compliance Board, 1111 18th Street NW., Suite 501, Washington, DC, (202) 653–7834 (voice or TDD).

**SUPPLEMENTARY INFORMATION:** Pursuant to section 502 of the Rehabilitation Act of 1973, Pub. L. 93–112, 87 Stat. 391, as amended, the Architectural and Transportation Barriers Compliance Board (hereinafter ATBCB or the Board)

adopted a Statement of Organization and Procedures on September 16, 1975. The Statement was published at 50 FR 1032 (1975) and codified at 36 CFR part 1155. The Statement was amended by the Board on May 9, 1977; March 14, 1978; March 11, 1980; May 10, 1983; May 12, 1986; September 16, 1987; March 9, 1988; May 10, 1989; and January 23, 1990. The amendments to the Statement of Organization and Procedures passed by the ATBCB at its January 23, 1990 meeting provide that: (1) The Chair is no longer required to have the approval of the Executive Committee to place items of business on the Board agenda; and (2) A provision for notational voting was added.

**List of Subjects in 36 CFR Part 1155**

Authority delegations (Government agencies), Handicapped, Organizations and functions (Government agencies).

For the reasons stated in the preamble, chapter XI of title 36, Code of Federal Regulations, is amended by amending part 1155 as follows:

**PART 1155—[AMENDED]**

1. The authority citation for 36 CFR part 1155 continues to read as follows:

**Authority:** 29 U.S.C. 792, as amended.

2. Section 1155.2 is amended by revising paragraph (h); and by adding a new paragraph (k) to read as follows:

**§ 1155.2 Board meetings.**

* * * * *

(h) *Agenda.* The Chair places items of business on the Board agenda. A written notice of ten (10) work days to the full Board is required for an item to become part of the Board's agenda. The ten (10) days notice requirement may be waived upon a two-thirds vote by the Board to suspend the rules of order.

* * * * *

(k) *Notational voting.* The Board may act on items of business by notational voting. At the request of the Chair, the Executive Director shall send a written ballot to each Board member describing each matter submitted for notational voting. If any Board member requests discussion on an item, the ballots shall not be counted and the Chair shall place the item on the next Board meeting agenda for discussion and voting.

**Stanley W. Smith,**

*Chair, Architectural and Transportation Barriers Compliance Board.*

[FR Doc. 90-7857 Filed 4-4-90; 8:45 am]

BILLING CODE 6820-BP-M

## ENVIRONMENTAL PROTECTION AGENCY

**40 CFR Parts 798 and 799**

**[OPTS-46017A; FRL 3660-1]**

**RIN 2070-AB94**

## Mouse Visible Specific Locus Test Requirement; Final Amendment In Test Rules

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

**ACTION:** Final rule.

**SUMMARY:** EPA is issuing a final rule amending the requirement for the mouse visible specific locus test (MVSL) allowing sponsors of tests conducted under section 4 of the Toxic Substances Control Act (TSCA), to choose either the MVSL or the mouse biochemical specific locus test (MBSL) intesting for heritable gene mutations in mammals when notified by EPA that such testing is necessary. EPA believes that both tests are comparable and acceptable for detecting heritable gene mutations in mammals. This action also promulgates the test guideline for the MBSL, specifying a reporting requirement of 51 months for the completion of testing for either the MVSL or MBSL, and specifying certain specimen retention requirements for the MBSL and MVSL.

**DATES:** This rule shall be effective on May 21, 1990. In accordance with 40 CFR 23.5, this rule shall be promulgated for purposes of judicial review at 1 p.m. eastern standard time on April 19, 1990.

**FOR FURTHER INFORMATION CONTACT:** Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Rm. E-543B, 401 M St. SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of December 23, 1988 (53 FR 51847), EPA issued a proposed rule under TSCA section 4(a) to amend the requirement for the MVSL in the proposed test rule for triethylene glycol monomethyl, monoethyl, and monobutyl ethers, and in final test rules for: (1) Four fluoroalkenes, (2) oleylamine (Phase I and Phase II), (3) commercial hexane, (4) unsubstituted phenylenediamines, and (5) isopropanol to allow the test sponsors for these or future test rules to use either the MVSL or the MBSL in the testing of chemical substances when notified by EPA. This notice promulgates these amendments and additions, and responds to public comment on the proposal.

### I. Introduction

In the **Federal Register** of May 23, 1985 (50 FR 21398), EPA issued a final rule requiring testing of diethylenetriamine (DETA), including the MVSL. This would be triggered by a positive result in the *Drosophila* sex-linked recessive lethal test. In the **Federal Register** of April 10,1986 (51 FR 12344), EPA proposed test standards and reporting requirements for the testing of DETA which were promulgated in the **Federal Register** of February 3, 1987 (52 FR 3230). The Synthetic Organic Chemical Manufacturers Association and Texaco Chemical Corporation challenged this final rule in the U.S. Court of Appeals for the Third Circuit (No. 87-3265), arguing that the MVSL, required by the rule, would be impossible to perform due to the unavailability of a laboratory to perform the test.

The MVSL requirement also appears in five other final test rules: Fluoroalkenes (June 8, 1987, 52 FR 21516); oleylamine Phase I (August 24, 1987, 52 FR 31962); commercial hexane (February 5, 1988, 53 FR 3382); unsubstituted phenylenediamines (November 30, 1989, 54 FR 49285); and isopropanol (October 23, 1989, 54 FR 43252). Persons subject to these rules did not challenge the MVSL requirement.

Since that time, EPA confirmed the report that DETA did not produce positive results as defined in 40 CFR 798.5275 in the sex-linked recessive lethal test in *Drosophila*, the triggering test for the MVSL. Therefore, the petitioners and EPA asked the Court to dismiss the DETA case. The Court subsequently dismissed the case. However, because EPA believed that the MVSL issue still needed to be addressed, EPA issued the MVSL proposed rule on December 23,1988, (53 FR 51847).

The MVSL rule proposed exemptions to certain Good Laborotory Practice Standards (GLPs). Specifically, EPA proposed that testing facilities conducting either the MVSL or MBSL be exempt from the provisions of §§ 792.190(a) and 792.195(b) and (c) of the GLP Standards. These exemptions were limited to the storage and retention of certain biological preparations. Since the time of the proposed MVSL rule, a rule amending the GLP Standards has been promulgated (August 17, 1989; 54 FR 34034). In this rule amending the GLP Standards, the requirement to retain biological specimens for 10 years has been modified. The GLP Standards now state that biological specimens need to be retained only until after quality assurance verification. Therefore, the

exemptions to the GLP Standards proposed in the MVSL rule are no longer necessary and are not being promulgated. However, EPA is promulgating the additional requirements to the GLP Standards proposed in the MVSL rule specific to the MVSL and MBSL tests, which require the testing laboratory to take and retain for 10 years 35–mm photographs (and negatives) of all mutant animals, their siblings, and their parents (for the MVSL), and of the starch-gels and electrofocussing columns exhibiting the migrating patterns obtained from all mutant animals, their siblings, and their parents (for the MBSL).

## II. Response to Public Comments

In the MVSL proposed rule, EPA solicited public comment specific to the MVSL and MBSL assays.

Comments on the MVSL proposed rule were received from the American Industrial Health Council (AIHC), the Chemical Manufacturers Association (CMA), E.I. DuPont de Nemours & Company (DuPont), Monsanto Company (Monsanto), the American Petroleum Institute (API), and the Synthetic Organic Chemical Manufacturers Association (SOCMA). EPA's full response to public comments is available in the record established for this rulemaking and consists of two memoranda from Michael C.Cimino to Ray Locke:

(1) "Response to Comments on Proposed Rule Amending MVSL Requirement", May 25, 1989.

(2) "Additional Response to Comments on Proposed Rule Amending MVSL Requirement", August 18, 1989.

The following is a summary of major comments and EPA's responses.

1. *Laboratory availability.* A comment was made that there is insufficient laboratory availability for running either the MVSL or MBSL assay commercially.

EPA acknowledges that the commercial availability of the MBSL assay is limited. However, Research Triangle Institute (RTI) currently conducts the MBSL and expects to conduct the MVSL in the future, and both studies can be done using TSCA GLP Standards at RTI.

2. *Spontaneous mutation rate.* A comment was made that there is substantial uncertainty over the historical spontaneous mutation rate; and that the assumption that detectable mutation rates at different loci are equivalent is unverified.

EPA agrees that the low spontaneous mutation rates may pose a problem. More flexibility may be necessary here, even to the extent of omitting the requirement for quantifying the historical spontaneous frequency contained within the guideline. This would permit individual laboratories conducting the test to establish their own historical data bases, without the burden of attempting to achieve a target frequency. EPA will examine such requests, and their justification, on a case-by-case basis.

3. *Cost.* A comment was made that the high cost of the MBSL, $350,000, is unwarranted.

EPA has acknowledged in the proposed rule the financial burden that running the assay would present to industry. Nevertheless, EPA believes that the importance of this health effect endpoint, coupled with the fact that two or more positive gene mutation assays in the two lower tiers of the testing sequence would have been necessary to arrive at the trigger for specific locus testing, warrant the expense of generating the data. EPA will continue to examine the value of this test and the financial burden on a case-by-case basis.

4. *Test relevance.* A comment was made that neither the MVSL or MBSL test will produce information of relevance to quantitative risk assessment. Current data on the MBSL do not demonstrate that the assay generates data suitable for quantitative risk assessment. EPA should wait 5 years until the MBSL is better validated, or until new assay system(s) are developed to assess heritable gene mutagenicity.

EPA provided justification for the use of the MVSL for risk assessment in prior test rules (see the final rule for diethylenetriamine (February 3, 1987, 52 FR 3230)). The MBSL is expected to have at least equivalent relevance to that of the MVSL. Many MBSL loci currently screened in mice are homologous to human loci and therefore are useful for risk assessment. While EPA encourages continued investigation in developing alternative assay systems to assess potential heritable gene mutagenicity, presently there are no known or available strong alternatives to the MVSL and MBSL, and it is unlikely that a break through discovery and validation of another test will occur in the next 5 years.

5. *Test equivalence.* A comment was made that there is uncertainty over the equivalence of the MBSL and MVSL assays, due to the nonspecific morphological or behavioral variants possible in the MBSL.

EPA believes that such additional possibilities do not reduce the efficacy of the MBSL. It still retains its ability to detect chemically-induced heritable gene mutations in an *in vivo* mammalian system, and thus serves the same basic purpose as the MVSL.

6. *Test statistics.* A comment was made that there is uncertainty concerning the required population sizes and specific statistical methods to be employed for the MBSL assay, the power of the test, and the reliability of the design.

Many guidelines do not have specific statistical methods specified, since this is an area under development for many mutagenicity assays at the present time. EPA Therefore believes it is inappropriate to recommend specific statistical methods in this guideline. Appropriate methods should be selected by the laboratory.

7. *Test inflexibility.* A comment was made that EPA should allow increased flexibility in test procedures (e.g., starch-gel electrophoresis) and reporting deadlines. EPA should permit detection of mutant bands by all other "proven, comparable, biochemical methods", not just starch-gel electrophoresis. Also, EPA should allow extended deadlines for new laboratories.

EPA's position is that guidelines in general are designed to provide guidance relative to the current state of the art in the assay system. If a test sponsor desires to modify the study design, such flexibility is provided by commenting on specific proposed test rules or by using the procedure under 40 CFR 790.68.

## III. Rulemaking Record

EPA has established a record for this rulemaking within each of the existing records for the remaining proposed and final TSCA section 4(a) test rules currently containing a requirement for the MVSL. They are: (1) Fluoroalkenes, OPTS–42002K; (2) Unsubstituted phenylenediamines, OPTS–42008G; (3) Oleylamine, OPTS–42061F; (4) Triethylene glycolmonomethyl, monoethyl, and monobutyl ethers, OPTS–42080F; (5) Commercial hexane, OPTS–42084J; and (8) Isopropanol, OPTS–42097C.

This record contains the information EPA considered in developing this final rule, and includes the following:

*Supporting Documentation*

(1) **Federal Register** notices pertaining to this rule, consisting of:

(a) Final test rules for diethylenetriamine (February 3, 1987, 52 FR 3230); fluoroalkenes (June 8, 1987, 52 FR 21516); oleylamine (August 24, 1987, 52 FR 31962 and December 1, 1988, 53 FR 48542); commercial hexane (February 5, 1988, 53 FR 3382); unsubstituted

phenylenediamines (November 30, 1989, 54 FR 49285); isopropanol (October 23, 1989, 54 FR 43252).

(b) Proposed test rule for triethylene glycol monomethyl, monoethyl, and monobutyl ether (May 15, 1986, 51 FR 17883).

(c) The TSCA health effects testing guideline for the mouse visible specific locus test (July 1, 1987, 40 CFR 798.5200)

(d) Notice containing EPA's Good Laboratory Practice Standards (August 17, 1989, 54 FR 34034).

(2) Communications, none.

This record is available for inspection in the TSCA Public Docket Office, Rm. G–004, NE Mall, 401 M St., SW., Washington, DC, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. EPA will supplement this record with information as received.

## IV. Other Regulatory Requirements

### *A. Executive Order 12291*

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. EPA has determined that the amendments to these test rules would not be major because they do not meet any of the criteria set forth in section 1(b) of the Order, i.e., they would not have any annual effect on the economy of at least $100 million, would not cause a major increase in prices, and would not have a significant adverse effect on competition or the ability of U.S. enterprises to compete with foreign enterprises.

This rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB to EPA, and any EPA response to those comments, are included in the rulemaking record.

### *B. Regulatory Flexibility Act*

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, Pub. L. 96–354, September 19, 1980), EPA is certifying that this rule, if promulgated, would not have a significant impact on a substantial number of small businesses because: (1) They are not likely to perform testing themselves, or to participate in the organization of the testing effort; (2) they will experience only very minor cost, if any, in securing exemption from testing requirements; and (3) they are unlikely to be affected by reimbursement requirements.

### *C. Paperwork Reduction Act*

OMB has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2070–0033.

EPA has determined that this rule does not change existing recordkeeping or reporting requirements nor does it impose any additional recordkeeping or reporting requirements on the public.

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 Management and Budget, Paperwork Reduction Project (2070–0033), Washington, DC 20503.

### List of Subjects in 40 CFR Parts 798 and 799

Chemical export, Chemicals, Environmental protection, Hazardous substances, Health, Laboratories, Recordkeeping and reporting requirements, Testing.

Dated: March 29, 1990.

**Linda J. Fisher,**

*Assistant Administrator for Pesticides and Toxic Substances.*

Therefore, 40 CFR, chapter I, subchapter R, is amended as follows:

## PART 798 —[AMENDED]

1. In part 798:

a. The authority citation for part 798 continues to read as follows:

**Authority:** 15 U.S.C. 2603.

b. In subpart F by adding § 798.5195 to read as follows:

### § 798.5195 Mouse biochemical specific locus test.

(a) *Purpose.* The mouse biochemical specific locus test (MBSL) may be used to detect and quantitate mutations originating in the germ line of a mammalian species.

(b) *Definitions.* (1) A biochemical specific locus mutation is a genetic change resulting from a DNA lesion causing alterations in proteins that can be detected by electrophoretic methods.

(2) The germ line is comprised of the cells in the gonads of higher eukaryotes, which are the carriers of the genetic information for the species.

(c) *Reference substances.* Not applicable.

(d) *Test method*—(1) *Principle.* The principle of the MBSL is that heritable damage to the genome can be detected by electrophoretic analysis of proteins in the tissues of the progeny of mice treated with germ cell mutagens.

(2) *Description.* For technical reasons, males rather than females are generally treated with the test chemical. Treated males are then mated to untreated females to produce F1 progeny. Both blood and kidney samples are taken from progeny for electrophoretic analysis. Up to 33 loci can be examined by starch-gel electrophoresis and broad-range isoelectric focussing. Mutants are identified by variations from the normal electrophoretic pattern. Presumed mutants are bred to confirm the genetic nature of the change.

(3) *Animal selection*—(i) *Species and strain.* Mice shall be used as the test species. Although the biochemical specific locus test could be performed in a number of in bred strains, in the most frequently used cross, C57BL/6 females are mated to DBA/2 males to produce (C57BL/6 x DBA/2) F1 progeny for screening.

(ii) *Age.* Healthy, sexually-mature (at least 8 weeks old) animals shall be used for treatment and breeding.

(iii) *Number.* A decision on the minimum number of treated animals should take into account possible effects of the test chemical on the fertility of the treated animals. Other considerations should include:

(A) The production of concurrent spontaneous controls.

(B) The use of positive controls.

(C) The power of the test.

(4) *Control groups*—(i) *Concurrent controls.* An appropriate number of concurrent control loci shall be analyzed in each experiment. These should be partly derived from matings of untreated animals (from 5 to 20 percent ofthe treated matings), although some data on control loci can be taken from the study of the alleles transmitted from the untreated parent in the experimental cross. However, any laboratory which has had no prior experience with the test shall produce a spontaneous control sample of about 5,000 progeny animals and a positive control (using 100 mg/kg ethylnitrosourea) sample of at least 1,200 offspring.

(ii) *Historical controls.* Long-term, accumulated spontaneous control data (currently, 1 mutation in 1,200,000 control loci screened) are available for comparative purposes.

(5) *Test chemicals*—(i) *Vehicle.* When possible, test chemicals shall be dissolved or suspended in distilled water or buffered isotonic saline. Water-insoluble chemicals shall be dissolved or suspended in appropriate vehicles. The vehicle used shall neither interfere with the test chemical nor produce major toxic effects. Fresh preparations of the test chemical should be employed.

(ii) *Dose levels.* Usually, only one dose need be tested. This should be the

maximum tolerated dose (MTD), the highest dose tolerated without toxic effects. Any temporary sterility induced due to elimination of spermatogonia at this dose must be of only moderate duration, as determined by are turn of males to fertility within 80 days after treatment. For evaluation of dose-response, it is recommended that at least two dose levels be tested.

(iii) *Route of administration.* Acceptable routes of administration include, but are not limited to, gavage,inhalation, and mixture with food or water, and intraperitoneal or intravenous injections.

(e) *Test performance*—(1) *Treatment and mating.* Male DBA/2 mice shall be treated with the test chemical and mated to virgin C57BL/6 females immediately after cessation of treatment. Each treated male shall be mated to new virgin C57BL/6 females each week. Each pairing will continue for a week until the next week's mating is to begin. This mating schedule permits sampling of all post-spermatogonial stages of germ-cell development during the first 7 weeks after exposure. Spermatogonial stem cells are studied thereafter. Repeated mating cycles should be conducted until sufficient offspring have been obtained to meet the power criterion of the assay for spermatogonial stem cells.

(2) *Examination of offspring*—(i) *Birth and weaning.* Offspring shall be examined at birth and at weaning for externally detectable changes in morphology and behavior; these could be due to dominant mutations. Such characteristics may include, but are not limited to, variations in coat color, appearance of eyes, size (in which case weighing of variant animals and littermates should be carried out), fur texture, etc. Gross changes in external form and behavior shall also be sought. Scrutiny of such visible characteristics of all animals shall be made during all subsequent manipulations of the animals.

(ii) *Tissue sampling.* Blood (about 0.1 mL) and one kidney shall be removed from progeny mice under anesthesia. Both tissues are then prepared for analysis by electrophoresis.

(iii) *Electrophoresis.* The gene products of 6 loci shall be analyzed in the blood sample by broad-range isoelectric focussing and of 27 loci in the kidney sample by starch-gel electrophoresis and enzyme-specific staining. Details on these procedures are included in paragraphs (g)(1) through (g)(3) of this section.

(iv) *Mutant identification.* Presumptive electrophoretic mutants shall be identified by variation from the normal electrophoretic banding patterns. Reruns of all variant samples shall be performed to confirm the presence of altered banding patterns. Samples from parents of progeny exhibiting banding pattern variations shall be assayed to determine whether the variant was induced by the experimental treatment or was pre-existing. All treatment-induced variants are bred to determine the genetic nature of the change.

(f) *Data and reports*—(1) *Treatment of results.* Data shall be presented in tabular form and shall permit independent analysis of cell stage-specific effects, and dose-dependent phenomena. The data shall be recorded and analyzed in such a way that clusters of identical mutations are clearly identified. The individual mutants detected shall be thoroughly described. In addition, concurrent positive control data (if employed) and spontaneous control data shall also be tabulated. These concurrent controls shall be added to, as well as compared with, the historical control data.

(2) *Statistical evaluation.* Data shall be evaluated by appropriate statistical methods.

(3) *Interpretation of results.* (i) There are several criteria for determining a positive response, one of which is a statistically significant dose-related increase in the frequency of electrophoretic mutations. Another criterion may be based upon detection of a reproducible and statistically significant positive response for at least one of these test points.

(ii) A test chemical which does not produce a statistically significant increase in the frequency of electrophoretic mutations over the spontaneous frequency, or a statistically significant and reproducible positive response for at least one of the test points, is considered nonmutagenic in this system, provided that the sample size is sufficient to exclude a biologically significant increase in mutation frequency.

(iii) Both biological and statistical significance should be considered together in the evaluation.

(4) *Test evaluation.* (i) Positive results in the MBSL indicate that, under the test conditions, the test chemical induces heritable gene mutations in a mammalian species.

(ii) Negative results indicate that, under the test conditions, the test chemical does not induce heritable genemutations in a mammalian species.

(5) *Test report.* In addition to the reporting requirements as specified under 40 CFR part 792, subpart J, and paragraph (h) of this section, the following specific information shall be reported:

(i) Strain, age and weight of animals used; numbers of animals of each sex in experimental and control groups.

(ii) Test chemical vehicle, doses used, rationale for dose selection, and toxicity data, if available.

(iii) Route and duration of exposure.

(iv) Mating schedule.

(v) Number of loci screened for both treated and spontaneous data.

(vi) Criteria for scoring mutants.

(vii) Number of mutants found/locus.

(viii) Loci at which mutations were found.

(ix) Use of concurrent negative and positive controls.

(x) Dose-response relationship, if applicable.

(g) *References.* For additional background information on this test guideline, the following references should be consulted:

(1) Personal communication from Susan E. Lewis, Ph.D. to Dr. Michael Cimino, U.S. EPA, OTS, October 5, 1989.

(2) Johnson, F.M., G.T. Roberts, R.K. Sharma, F.Chasalow, R. Zweidinger, A. Morgan, R.W. Hendren, and S.E.Lewis. "The detection of mutants in mice by electrophoresis: Results of a model induction experiment with procarbazine." *Genetics* 97:113–124 (1981).

(3) Johnson, F.M. and S.E. Lewis. "Mutation rate determinations based on electrophoretic analysis of laboratory mice." *Mutation Research* 82:125–135 (1981a).

(4) Johnson, F.M. and S.E. Lewis. "Electrophoretically detected germinal mutations induced by ethylnitrosourea in the mouse." *Proceedings of the National Academy of Sciences* 78:3138–93141 (1981b).

(5) Lewis, S.E., C. Felton, L.B. Barnett, W. Generoso, N. Cacheiro, and M.D. Shelby. "Dominant visible and electrophoretically expressed mutations induced in male mice exposed to ethylene oxide by inhalation." *Environmental Mutagenesis* 8:867–872 (1986).

(h) *Additional requirements.* Testing facilities conducting the mouse biochemical specific locus test in accordance with this section shall, in addition to adhering to the provisions of §§ 792.190 and 792.195 of this chapter, obtain, adequately identify, and retain for at least 10 years, acceptable 35–mm photographs (and their negatives) of the stained isoelectric-focussing columns and the stained starch-gels obtained following analyses of blood and kidney preparations, respectively, from mutant mice, their siblings, and their parents.

c. In § 798.5200 by revising paragraph (f)(5) and adding paragraph (h) to read as follows:

**§ 798.5200 Mouse visible specific locus test.**

* * * * *

(f) * * *

(5) *Test report.* In addition to the reporting requirements as specified under 40 CFR part 792, subpart J, and paragraph (h) of this section, the following specific information shall be reported:

* * * * *

(h) *Additional requirements.* Testing facilities conducting the mouse visible specific locus test in accordance with this section shall, in addition to adhering to the provisions of §§ 792.190 and 792.195 of this chapter, obtain, and retain for at least 10 years, acceptable 35-mm color photographs (and their negatives) demonstrating the visible mutations observed in mutant animals and the lack of such mutations in their siblings and parents.

**PART 799—[AMENDED]**

2. In part 799:

a. The authority citation for part 799 continues to read as follows:

**Authority:** 15 U.S.C. 2603, 2611, 2625.

b. In § 799.1700 by revising paragraphs (c)(1)(i)(C)(*1*), (c)(1)(ii)(A), and (d) to read as follows:

**§ 799.1700 Fluoroalkenes.**

* * * * *

(c) * * *

(1) * * *

(i) * * *

(C) * * *

(*1*) A mouse visible specific locus assay (MVSL) shall be conducted with VF, VDF, TFE, and HFP in accordance with § 798.5200 of this chapter, except for the provisions of paragraph (d)(5) of § 798.5200, or a mouse biochemical-specific locus assay (MBSL) shall be conducted with VF, VDF, TFE, and HFP in accordance with § 798.5195 of this chapter, except for the provisions of paragraph (d)(5) of § 798.5195, for whichever of these substances produces a positive test result in the sex-linked recessive lethal test in *Drosophila melanogaster* conducted pursuant to paragraph (c)(1)(i)(B) of this section if, after a public program review, EPA issues a **Federal Register** notice or sends a certified letter to the test sponsor specifying that the testing shall be initiated.

* * * * *

(ii) * * *

(A) Mutagenic effects-gene mutation tests shall be completed and the final reports shall be submitted to EPA as follows: Somatic cells in culture assay, within 6 months after the effective date of the final rule; *Drosophila* sex-linked recessive lethal, within 9 months (for VF and VDF) and within 15 months (for TFE and HFP) after the effective date of the final rule; MVSL or MBSL, within 51 months after the date of EPA's notification of the test sponsor by certified letter or **Federal Register** notice that testing shall be initiated.

* * * * *

(d) *Effective dates.* (1) The effective date of this rule is July 22, 1987, except for the provisions of paragraphs (c)(1)(i)(C)(*1*), and (c)(1)(ii)(A), which are effective May 21, 1990.

(2) The guidelines and other test methods cited in this section are referenced as they exist on the effective date of the final rule.

* * * * *

c. In § 799.2155 by adding paragraphs (c)(5)(i)(D); (c)(5)(ii)(A)(*4*), and (c)(5)(ii)(C); and revising paragraph (d) to read as follows:

**§ 799.2155 Commercial hexane.**

* * * * *

(c) * * *

(5) * * *

(i) * * *

(D)(*1*) Unless the results of the sex-linked recessive lethal test in *Drosophila melanogaster* conducted with commercial hexane pursuant to paragraph (c)(5)(i)(C) of this section are negative, EPA shall conduct a public program review of all of the mutagenicity data available for this substance. If, after this review, EPA decides that testing of commercial hexane for causing heritable gene mutations in mammals is necessary, it shall notify the test sponsor by certified letter or **Federal Register** notice that testing shall be initiated in either the mouse visible specific locus test or the mouse biochemical specific locus test. The mouse visible specific locus test, if conducted, shall be performed for commercial hexane in accordance with § 798.5200 of this chapter except for the provisions in paragraphs (d)(5)(ii) and (d)(5)(iii) of § 798.5200. The mouse biochemical specific locus test, if conducted, shall be performed for commercial hexane in accordance with § 798.5195 of this chapter except for the provisions in paragraphs (d)(5)(ii) and (d)(5)(iii) of § 798.5195.

(*2*) For the purposes of this section, the following provisions also apply:

(*i*) *Dose levels.* A minimum of two dose levels shall be tested. The highest dose tested shall be the highest dose tolerated without toxic effects, provided that any temporary sterility induced due to elimination of spermatogonia is of only moderate duration, as determined by a return of males to fertility within 80 days of treatment, or shall be the highest dose attainable below the lower explosive limit concentration of commercial hexane. Exposure shall be for 6 hours a day. Duration of exposure shall be dependent upon the accumulated total dose desired for each group.

(*ii*) *Route of administration.* Animals shall be exposed to commercial hexane by inhalation.

(ii) * * *

(A) * * *

(*4*) The mouse visible specific locus test or the mouse biochemical specific locus test shall be completed and a final report shall be submitted to EPA within 51 months of the date on which the test sponsor is notified by EPA by certified letter or **Federal Register** notice that testing shall be initiated.

* * * * *

(C) Interim progress reports for either the mouse visible specific locus test or the mouse biochemical specific locus test shall be submitted to EPA at 6-month intervals, beginning 6 months after EPA's notification of the test sponsor that testing should be initiated, until the applicable final report is submitted to EPA.

* * * * *

(d) *Effective dates.* (1) The effective date of this final rule is November 17, 1988, except for the provisions of paragraphs (c)(5)(i)(D), (c)(5)(ii)(A)(*4*), and (c)(5)(ii)(C), which are effective May 21, 1990.

(2) The guidelines and other test methods cited in this section are referenced as they exist on the effective date of the final rule.

* * * * *

d. In § 799.3175 by revising paragraphs (c)(3)(i)(C) and (d), and adding paragraphs (c)(3)(ii)(C), (c)(3)(iii)(A)(*3*), and (c)(3)(iii)(C) to read as follows:

**§ 799.3175 Oleylamine.**

* * * * *

(c) * * *

(3) * * *

(i) * * *

(C) A mouse visible specific locus test (MVSL) or a mouse biochemical specific locus test (MBSL) shall be conducted for ODA if it produces a positive result in the sex-linked recessive lethal test in *Drosophila melanogaster* conducted pursuant to paragraph (c)(3)(i)(B) of this section and if so required in a **Federal**

Register notice or certified letter sent to test sponsors.

* * * * *

(ii) * * *

(C)(*1*) If required, the MVSL or MBSL shall be conducted with ODA in accordance with §§ 798.5200 or 798.5195 of this chapter, respectively, except for the provisions of paragraph (d)(5)(iii) of each of these sections.

(*2*) For purposes of this section, the following provision also applies.

(*i*) *Route of administration.* The route of exposure shall be oral by gavage.

(*ii*) [Reserved]

(iii) * * *

(A) * * *

(*3*) The MVSL or MBSL shall be completed and the final report submitted to EPA within 51 months of EPA'snotification of the test sponsor by certified letter or **Federal Register** notice that testing shall be initiated.

* * * * *

(C) Progress reports shall be submitted to EPA for the MVSL or the MBSL at 6–month intervals, the first of which is due within 6 months of EPA's notification of the test sponsor that testing shall be initiated.

* * * * *

(d) *Effective dates.* (1) The effective date of this rule is October 7, 1987, except for the provisions of paragraphs (c)(1)(ii) and (c)(1)(iii), (c)(2)(ii) and (c)(2)(iii); (c)(3)(ii)(A), and (c)(3)(ii)(B), (c)(3)(iii)(A)(*1*), (c)(3)(iii)(A)(*2*), (c)(3)(iii)(B), (c)(4)(ii) and (c)(4)(iii), which are effective on January 17, 1989.

(2) Paragraphs (c)(3)(i)(C), (c)(3)(ii)(C), (c)(3)(iii)(A)(*3*), and (c)(3)(iii)(C) of this rule are effective May 21, 1990.

(3) The guidelines and other test methods cited in this section are referenced as they exist on the effective date of the final rule.

* * * * *

e. In § 799.2325 by revising paragraphs (c)(5)(i)(C)(*1*), (c)(5)(ii)(A)(*3*), and (d) to read as follows:

**§ 799.2325 Isopropanol.**

* * * * *

(c) * * *

(5) * * *

(i) * * *

(C) * * *

(*1*) The mouse visible specific locus test (MVSL) shall be conducted with isopropanol by inhalation in accordance with § 798.5200 of this chapter, except for the provisions in paragraphs (d)(5)(ii) and (d)(5)(iii) of § 798.5200, or a mouse biochemical specific locus test (MBSL) shall be conducted with isopropanol by inhalation in accordance with § 798.5195 of this chapter, except for the provisions in paragraphs (d)(5)(ii) and (d)(5)(iii) of § 798.5195, if the results of the sex-linked recessive lethal test conducted pursuant to paragraph (c)(4)(i)(B) of this section are positive and if, after a public program review, EPA issues a **Federal Register** notice or sends a certified letter to the test sponsor specifying that the testing shall be initiated.

* * * * *

(ii) * * *

(A) * * *

(*3*) The MVSL or MBSL test within 51 months of the date of EPA's notification of the test sponsor by certified letter or **Federal Register** notice under paragraph (c)(4)(i)(C) of this section that testing shall be initiated.

* * * * *

(d) *Effective dates.* (1) The effective date of this rule is December 4, 1989, except for the provisions of paragraphs (c)(5)(i)(C)(*1*), and (c)(5)(ii)(A)(*3*), which are effective May 21, 1990.

(2) The guidelines and other test methods cited in this section are referenced as they exist on the effective date of the final rule.

* * * * *

f. In § 799.3300 by revising paragraphs (c)(1)(i)(B), (c)(1)(ii)(C), (c)(1)(ii)(F), and (f) to read as follows:

**§ 799.3300 Unsubstituted phenylenediamines.**

* * * * *

(c) * * *

(1) * * *

(i) * * *

(B) If the SLRL assay conducted pursuant to paragraph (c)(1)(i)(A) of this section is positive, either the mouse visible specific locus test (MVSL) or the mouse biochemical specific locus test (MBSL) shall be conducted for *m*-pda by gavage in accordance with §§ 798.5200 or 798.5195 of this chapter, if after public program review, EPA issues a **Federal Register** notice or sends a certified letter to the test sponsor(s) specifying that testing shall be initiated. The test sponsor shall notify EPA of its choice in writing in its first interim report.

* * * * *

(ii) * * *

(C) If required, the MVSL or the MBSL shall be completed and the final report shall be received by EPA no later than 51 months after EPA issues a **Federal Register** Notice or sends a certified letter to the test sponsor(s) identified under paragraph (c)(1)(i)(B) of this section specifying that testing shall be initiated.

* * * * *

(F) Interim reports for the HT and either the MBSL or MVSL are required at 6–month intervals beginning 6 months after the date of notification by EPA that testing shall be initiated, and ending when the final report is submitted.

* * * * *

(f) *Effective date.* (1) The effective date of this rule is January 16, 1990, except for the provisions of paragraphs (c)(1)(i)(B), (c)(1)(ii)(C), and (c)(1)(ii)(F), which are effective on May 21, 1990.

(2) The guidelines and other test methods cited in this section are referenced as they exist on the effective date of the final rule.

* * * * *

[FR Doc. 90–7886 Filed 4–4–90; 8:45 am]

BILLING CODE 6560–50–D

## NATIONAL SCIENCE FOUNDATION

### 45 CFR Part 613

### Privacy Act Regulations

**AGENCY:** National Science Foundation (NSF).

**ACTION:** Final rule.

**SUMMARY:** This final rule adds 45 CFR 613.6(c) and 613.6(d) to exempt a system of records entitled "Office of Inspector General Investigative Files" from certain sections of the Privacy Act of 1974 (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a (j) and (k). Notice of this amendment and exemption, inviting public comment, was published as a proposed rule in the **Federal Register** on February 14, 1990 (55 FR 5234). The one comment received is discussed below.

**EFFECTIVE DATE:** April 5, 1990.

**FOR FURTHER INFORMATION CONTACT:** Philip L. Sunshine, Counsel to the Inspector General, Office of Inspector General, National Science Foundation, Washington, DC 20550 (202–357–9457).

**SUPPLEMENTARY INFORMATION:** Notice of a new system of records entitled "Office of Inspector General Investigative Files" was published in the **Federal Register** on February 14, 1990 (55 FR 5308).

Accompanying this notice was a proposed rule to exempt this system of records from certain sections of the Privacy Act of 1974 (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a (j) and (k). The proposed rule was published in the **Federal Register** on February 14, 1990 (55 FR 5234).

One comment was received in response to the proposed rule. According to the commentator it may not be appropriate to grant an exemption pursuant to 5 U.S.C. 552a(j)(2).

5 U.S.C. 552a(j)(2) allows for an exemption for files "maintained by an agency or component thereof which

performs as its principal function any activity pertaining to the enforcement of criminal laws." The commentator asserts that NSF's Office of Inspector General (OIG) does not perform as its principal function any activity pertaining to criminal laws, but implies that an investigative unit within OIG may well do so. We do not agree with the commentator that OIG does not perform as its principal function any activity pertaining to criminal laws. The Inspector General Act of 1978, as amended, specifically mandates Inspectors General to investigate allegations of criminal violations and NSF's Office of Inspector General does so. Moreover, NSF's Office of Inspector General Investigative Files are, in fact, maintained by the Office of Inspector General's Investigations Unit as the commentator implies would be preferable.

This rule has been reviewed under Executive Order No. 12291 and has been determined not to be a "major rule" since it will not have an annual effect on the economy of $100 million or more. In addition, it has been determined that this rule will not have a significant economic impact on a substantial number of small entities.

**List of Subjects in 45 CFR Part 613**

Privacy Act.

For the reasons set forth above 45 CFR, Chapter IV, part 613, is amended as follows:

## PART 613—PRIVACY ACT REGULATIONS

1. The authority citation for Part 613 continues to read as follows:

Authority: 5 U.S.C. 552a(b).

2. Section 613.6 (c) and (d) is added as follows:

**§ 613.6 Exemptions.**

* * * * *

(c) *OIG Files Compiled for the Purpose of a Criminal Investigation and for Related Purposes.* Pursuant to 5 U.S.C. 552a(j)(2), the Foundation hereby exempts the system of records entitled "Office of Inspector General Investigative Files," insofar as it consists of information compiled for the purpose of a criminal investigation or for other purposes within the scope of 5 U.S.C. 552a(j)(2), from the application of 5 U.S.C. 552a, except for subsections (b), (c)(1) and (2), (e)(4) (A) through (F), (e)(6), (7), (9), (10) and (11), and (i).

(d) *OIG Files Compiled for Other Law Enforcement Purposes.* Pursuant to 5 U.S.C. 552a(k)(2), the Foundation hereby exempts the systems of records entitled "Office of Inspector General Investigative Files," insofar as it consists of information compiled for law enforcement purposes other than material within the scope of 5 U.S.C. 552a(j)(2), from the application of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

Dated: March 30, 1990.

**Charles H. Herz,**

*General Counsel.*

[FR Doc. 90-7882 Filed 4-4-90; 8:45 am]

BILLING CODE 7555-01-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 227

**[Docket No. 900387-0087]**

## Listing of Steller Sea Lions as Threatened Under Endangered Species Act With Protective Regulations

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

**ACTION:** Emergency interim rule and request for comments.

**SUMMARY:** The number of Steller (northern) sea lions (*Eumetopias jubatus*) observed on certain rookeries in Alaska declined by 63% since 1985 and by 82% since 1960. The declines are spreading to previously stable areas and accelerating. Significant declines have also occurred on the Kuril Islands, USSR. NMFS is listing the Steller sea lion as a threatened species under the Endangered Species Act of 1973, 16 U.S.C. 1531 *et seq.* (ESA) and is establishing protective regulations as emergency interim measures to begin the population recovery process. Comments are requested on whether or not the species should be listed as endangered or threatened, possible causes of the decline, and conservation measures and protective regulations needed to prevent further declines.

**DATES:** This emergency rule is effective on April 5, 1990, and expires on December 31, 1990. Comments are requested by May 7, 1990.

**ADDRESSES:** Comments should be mailed to Dr. Nancy Foster, Director, Office of Protected Resources and Habitat Programs (F/PR), NMFS, 1335 East-West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Dr. Charles Karnella, Chief, Protected Species Management Division, Silver Spring, MD, 301-427-2322, or Dr. Howard Braham, Director, National Marine Mammal Laboratory, Seattle, WA, 206-526-4045.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Steller (northern) sea lion, *Eumetopias jubatus*, ranges from Hokkaido, Japan, through the Kuril Islands and Okhotsk Sea, Aleutian Islands and central Bering Sea, Gulf of Alaska, southeast Alaska, and south to central California. There is not sufficient information to consider animals in different geographic regions as separate populations. The centers of abundance and distribution are the Gulf of Alaska and Aleutian Islands, respectively. Rookeries (breeding colonies) are found from the central Kuril Islands (46° N.) to Ano Nuevo Island California (37° N.); most large rookeries are in the Gulf of Alaska and Aleutian Islands. More than 50 Steller sea lion rookeries and a greater number of haulout sites have been identified.

In 1985, 68,000 animals were counted in Alaska from Kenai Peninsula to Kiska Island, compared to 140,000 counted in 1956–60. A 1988 Status Report concluded that the population size in 1985 was probably below 50% of the historic population size in 1956–60 and below the lower bound of its optimum sustainable population level under the Marine Mammal Protection Act, 16 U.S.C. *et seq.* (MMPA). A 1989 survey showed that the number of observed animals from Kenai to Kiska declined to 25,000 animals. This indicates a decline of about 82% from 1956–60 to 1989 in this area. The counts are not an estimate of total numbers of animals but include only those animals on the beach (excluding pups) at the time of the survey. As such, they can be used to indicate trends in abundance, rather than estimating total species abundance. Copies of the 1988 Status Report and a 1989 Update are available from the **ADDRESSES** listed above.

Species abundance estimates during the late 1970s ranged from 245–290,000 adult and juvenile animals. Although we do not have current population estimates, total counts of sea lions during the 1989 survey were about 66,000, with declines reported on the Kuril Islands, Aleutian Islands, and the Gulf of Alaska:

| | |
|---|---|
| Alaska | 53,000 |
| WA, OR and CA | 4,000 |
| British Columbia | 6,000 |
| Soviet Union | 3,000 |
| | 66,000 |

**Designation Under the MMPA**

Based on the 1988 Status Report, NMFS intended to prepare a proposed rule to designate the Steller sea lions in Alaska as depleted under the MMPA and published an Advance Notice of Proposed Rulemaking (53 FR 16299, May 6, 1988). Most comments expressed strong concern that a depletion designation for Steller sea lions would seriously curtail or possibly end commercial fishing, especially trawl fishing, in the sea lion's range because incidental take of depleted stocks was prohibited by the NMPA.

In October 1988, the MMPA was amended to include a new section 114 to replace most earlier provisions for granting incidential take authority to commercial fishermen with an interim exemption system valid until October 1, 1993. The purpose of the new system was to provide better information on interactions between commercial fisheries and marine mammals and allows commercial fishing operations to continue whether or not depleted stocks or stocks of unknown status were taken. Information collected during the exemption period will be used in the development of a long-term program governing the taking of marine mammals associated with commercial fishing after October 1, 1993.

**Petition for Listing**

On November 21, 1989, the Environmental Defense Fund and 17 other environmental organizations petitioned NMFS for an emergency rule listing all populations of Steller sea lions in Alaska as endangered and to initiate a rulemaking to make that emergency listing permanent. Under section 4 of the ESA, NMFS determined that the petition presented substantial information indicating the action may be warranted and requested comments (February 22, 1990, 55 FR 6301). Comments received in response to that notice and this emergency rule will be considered in determining whether the species should be proposed for listing as endangered or threatened.

**Summary of Factors Affecting the Species**

An endangered species is any species which is in danger of extinction throughout all or a significant portion of its range and a threatened species is any species which is likely to become an endangered species within the foreseeable furture throughout all or a significant portion of its range. Species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1) of the ESA. These factors as they apply to Steller sea lions are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Steller sea lions breed on islands in the North Pacific Ocean generally far from human habitations. Although rookery space availability could be a limiting factor for this species, there is no evidence of rookery habitat curtailment. In fact, as the number of animals continues to decline, rookeries are being abandoned and available rookery space is increasing.

The feeding habitats of Steller sea lions in Alaska may have changed. State of Alaska biologists found that populations in the Gulf of Alaska during the 1980s had slower growth rates, poorer physical fitness (lower weights, smaller girth), and lowered birth rates. Some data show a high negative correlation between the amount of walleye pollock caught and sea lion abundance trends in the eastern Aleutians and central Gulf of Alaska. It is possible that a reduction in availability of pollock, the most important prey species in most areas, is a contributing factor in the decline in the number of Steller sea lions in western and central Alaska.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Between 1963–72, over 45,000 Steller sea lion pups were commercially harvested in the eastern Aleutian Islands and Gulf of Alaska. This harvest may explain declines seen in these areas through the 1970s. Small subsistence harvests of Steller sea lions occur in Alaska but are not of sufficient magnitude to contribute to the overall decline. A small number has also been taken for public display and scientific research purposes.

C. *Disease or predation.* Sharks, killer whales and brown bears are known to prey on Steller sea lion pups. Mortality from sharks and bears are not considered to be significant. When sea lion abundance was high, the level of mortality from killer whales was probably not significant but as sea lion numbers decline this mortality may exacerbate the decline in certain areas.

Disease resulting in reproductive failure or death could be a source of increased mortality in Steller sea lion populations, but it probably does not explain the massive declines in numbers. Antibodies to two types of pathological bacteria (*Leptospira* and *Chlamydia*) and one marine calicivirus (San Miguel Sea Lion Virus) were found in the blood of Steller sea lions in Alaska. Leptospires and San Miguel sea lion viruses may be associated with reproductive failures and deaths in California sea lions and North Pacific fur seals. *Chlamydia* has not been studied previously in sea lions, but is known from studies of Pribilof Island fur seals. None of these agents is thought to be a significant cause of mortality in Steller sea lions.

D. *The inadequacy of existing regulatory mechanisms.* Some protection for the Steller sea lion is provided under MMPA which prohibits the taking of Steller sea lions with certain exceptions including an interim exemption for commercial fishing. Once 1,350 Steller sea lions have been killed incidental to commercial fishing, section 114 of the MMPA requires NMFS to prescribe emergency regulations to prevent to the maximum extent practicable any further taking. Intentional lethal takes are prohibited. In addition, section 114(g) of the MMPA provides that regulations may be prescribed to prevent taking of a marine mammal species in a commercial fishery if it is determined that the incidental taking of the marine mammal in that fishery is having or will likely have a significant adverse impact on that marine mammal population stock. The MMPA also requires NMFS to prepare a conservation plan for Steller sea lions by December 31, 1990.

E. *Other natural or manmade factors affecting its continued existence.* Steller sea lions are taken incidental to commercial fishing operations in the Gulf of Alaska and the Bering Sea.

Between 1973–1988, U.S. observers on foreign and joint venture vessels operating in these areas reported 3,661 marine mammals taken. Steller sea lions accounted for 90% of this observed total. Based on these observed takes and an extrapolation of total tonnage of fish caught over this time period, the total number of Steller sea lions incidentally killed by the foreign and joint venture commercial trawl fisheries during 1973–1988 is an estimated 14,000. However, since 1985 the level and rate of observed incidental take has decreased to the point where, by itself, it is not sufficient to account for the most recently observed declines. Incidences of fishermen shooting adult Steller sea lions at rookeries, haul out sites, and in the water near boats have been reported, but the magnitude of this source of mortality is unknown.

Observer programs under the MMPA, and for the groundfish fisheries of Alaska under the Magnuson Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. 1801 *et seq.* (Magnuson Act), will assist NMFS in

determining whether the incidental take of Steller sea lions during commercial fishing operations or other observable activities are factors in the decline in the number of these animals in Alaska.

**Reasons for Emergency Determination**

As discussed above, the number of Steller sea lions observed on certain rookeries in Alaska declined by 63% since 1985 and by 82% since 1960. The declines are spreading to previously stable areas and accelerating. The decline has spread from the eastern Aleutian Islands, where the decline began in the early 1970s, east to the Gulf of Alaska, and west to the previously stable central Aleutian Islands. Significant declines have also occurred on the Kuril Islands, USSR. The rates of decline in the eastern Aleutian Islands and the western Gulf of Alaska are increasing. The cause(s) of these declines have not been determined, and essential research is continuing.

NMFS concludes that the Steller sea lion should be listed as a threatened species on an emergency interim basis and believes that immediate implementation of the protective measures of the ESA will aid recovery efforts.

**Available Conservation Measures**

Conservation measures for species that are listed as endangered or threatened under the ESA include recognition, recovery actions, implementation of certain protective measures, and designation and protection of critical habitat. Section 7(a) of the ESA requires Federal agencies to carry out programs for the conservation of endangered and threatened species. Section 7(b) requires that each Federal agency insure that any action authorized, funded, or carried out by the agency is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of its critical habitat.

In the case of the Steller sea lion, Federal actions most likely to affect this species include approval and implementation of Fishery Management Plans and regulations under the Magnuson Act, permitted activities associated with timber, mineral, and oil development on land near rookeries and haulout sites, and leasing activities associated with oil and gas exploration and development on the Outer Continental Shelf.

In addition, the following emergency conservation measures are being implemented by NMFS to facilitate recovery of the Steller sea lion:

*A. Management Actions*

1. *Monitoring incidental take in fisheries.* Under the interim exemption system established by the 1988 MMPA amendments, all Category I fisheries are subject to 20–35% observer coverage. Similarly, almost all Federally-licensed vessels in groundfish fisheries off Alaska will carry observers. All groundfish vessels over 125 feet in length and all foreign vessels will carry observers at all times. Each groundfish vessel of 60–125 feet in length will carry observers during 30% of its operations in each three-month period. These observer programs, together with estimates of fishing effort, will be used to make monthly estimates of the level of incidental kill of Steller sea lions in observed fisheries. NMFS may also establish additional observer programs in other fisheries under the authority in this emergency rule. These actions will allow NMFS to monitor a quota or catch limit for Steller sea lions.

2. *Enforcement.* NMFS intends to aggressively enforce these regulations, especially as they relate to intentional, lethal takes of Steller sea lions. Enforcement resources will be provided, to the extent possible, to cover areas and seasons where Steller sea lions are most vulnerable, to initiate an active TIP/Reward Program, and to promote public awareness.

3. *Establishment of a Recovery Program.* NMFS is establishing a Recovery Team to provide recommendations on further conservation measures. Members of the North Pacific Fishery Management Council, the Marine Mammal Commission, state agencies, and other prominent scientists and environmentalists will be invited to participate in developing and implementing a recovery program. The Pacific States Marine Fisheries Commission, in emergency consultation with interested parties, held a workshop on February 21–22 to identify and assess additional possible actions that might be undertaken on an emergency basis.

*B. Protective Regulations*

1. *Prohibit shooting near sea lions.* Although the MMPA prohibits intentional lethal take of Steller sea lions in the course of commercial fishing, fishermen have not been prohibited from harassing sea lions that are interfering with their gear or catch by shooting at or near them. Since these practices may result in inadvertent mortalities, NMFS is prohibiting shooting at or near Steller sea lions.

2. *Establish Buffer Zones.* NMFS is establishing a buffer zone of 3 nautical miles around the principle Steller sea lion rookeries in the Gulf of Alaska and the Aleutian Islands. Rookeries in southeastern Alaska, east of 141° W longitude, have not experienced the declines reported in central and western Alaska and no buffer zones are established for these areas. No vessels are allowed to operate within the 3-mile buffer zones during the period of this emergency rule. Similarly, no person may approach on land closer than one-half (½) mile or within sight of the listed Steller sea lion rookeries. On Marmot Island, no person may approach closer than one and one-half (1½) miles from the eastern shore. Marmot Island has traditionally been the most important Steller sea lion rookery in Alaska and the eastern beaches are used throughout the year by Steller sea lions.

The purposes of the buffer zones include restricting the opportunities for individuals to shoot at sea lions and facilitating enforcement of this restriction; reducing the likelihood of interactions with sea lions, such as accidents or incidental takings in these areas where concentrations of these animals are expected to be high; minimizing distrubances and interference with sea lion behavior, especially at pupping and breeding sites; and, avoiding or minimizing other related adverse affects. Exceptions are provided for emergency situations and navigational transit of certain passageways and straits. Furthermore, a mechanism is provided to allow the Regional Director, with the concurrence of the Assistant Administrator, to provide exemptions for certain activities. All exemptions must be in writing and obtained in advance of the activity. In order to be eligible for an exemption, the activity must not have a significant adverse impact on sea lions, the activity must have been conducted historically or traditionally in the buffer zones, and there must be no feasibly available and acceptable alternative to or site for the activity.

An exception is included in the regulations for conducting research on Steller sea lions provided that the research is authorized by a scientific permit issued under the MMPA. Because this is an emergency action and NMFS does not want to delay valuable research, NMFS is not requiring a separate research permit under the ESA.

3. *Establish Incidental Kill Quota.* When the MMPA was amended in 1988 to require emergency regulations once 1,350 Steller sea lions were incidentally killed in any year, the population numbers were based, in part, on 1985 data. In four study areas in Alaska,

Steller sea lions declined by an average of 63% from 1985 to 1989. Therefore, as an emergency interim measure NMFS believes that the incidental killing of more than 675 Steller sea lions on an annual basis should be prohibited in Alaskan waters and adjacent areas of the U.S. Exclusive Economic Zone (EEZ) west of 141° W longitude. The most serious declines in numbers of Steller sea lions have occurred in this area. As discussed above, in association with this quota, NMFS is instituting a more efficient monitoring system. If NMFS determines and publishes notice that 675 Steller sea lions have been killed in this area during 1990, it will be unlawful to kill any additional Steller sea lion. Animals killed during 1990 prior to the publication of this emergency rule will be counted against this quota. NMFS may issue emergency rules to allocate the quota among various fisheries, establish closed areas, or take other action to ensure that commercial fishing operations do no exceed the quota.

### Critical Habitat

The ESA requires that critical habitat be specified to the maximum extent prudent and determinable at the time the species is proposed for listing. NMFS intends to propose critical habitat at the earliest possible date as a part of the permanent rulemaking. NMFS will consider physical and biological factors essential to the conservation of the species that may require special management consideration or protection. These habitat requirements include breeding rookeries, haulout sites, feeding areas and nutritional requirements. In describing critical habitat, NMFS will take into consideration terrestrial habitats adjacent to rookeries and their need for protection from development and other uses, such as logging or mining.

### Classification

Since the Assistant Administrator for Fisheries, NOAA, has determined that the present situation poses a significant risk to the well-being of Steller sea lion populations, emergency regulations can be issued under section 4(b)(7) of the ESA. The Assistant Administrator finds that reasons justifying promulgation of this rule on an emergency basis make it impracticable and contrary to the public interest to provide notice and opportunity for prior comment or to delay for 30 days its effective date under section 553(b) and (d) of the Administrative Procedure Act.

Section 4(b)(1) of the ESA restricts the information which may be considered when assessing species for listing. Based on this limitation and the opinion in *Pacific Legal Foundation* v. *Andrus*, 675 F. 2d 829 (6th cir., 1981), NMFS has categorically excluded all listing actions under the ESA from environmental assessment requirements of the National Environmental Policy Act (48 FR 4413–23, February 6, 1984).

As noted in the Conference report on the 1982 amendments to the ESA, economic considerations have no relevance to determinations regarding the status of species. Therefore, the economic analysis requirements of Executive Order 12291, the Regulatory Flexibility Act, and the Paperwork Reduction Act are not applicable to the lising process.

### List of Subjects in 50 CFR Part 227

Endangered and Threatened species, Exports, Imports, Marine mammals, Transportation.

Dated: April 2, 1990.

William W. Fox, Jr.,

*Assistant Administrator for Fisheries.*

## PART 227—[AMENDED]

1. The authority citation for part 227 continues to read as follows:

**Authority:** 16 U.S.C. 1531 *et seq.*

2. Section 227.4 is amended by adding a new paragraph (f) from April 5, 1990 through December 3, 1990, to read as follows:

**§ 227.4 Enumeration of threatened species.**

* * * * *

(f) Steller (northern) sea lion (*Eumetopias jubatus*).

3. Section 227.12 is added to supbart B from April 5, 1990, through December 3, 1990, to read as follows:

**§ 227.12 Steller sea lion.**

(a) *Prohibitions*—(1) *No discharge of firearms.* Except as provided in paragraph (b) of this section, no person subject to the jurisdiction of the United States may discharge a firearm at or near a Steller sea lion. A firearm is any weapon, such as a pistol or rifle, capable of firing a missile using an explosive charge as a propellant.

(2) *No approach in buffer areas.* Except as provided in paragraph (b) of this section:

(i) No owner or operator of a vessel may allow the vessel to approach within 3 nautical miles of a Steller sea lion rookery site listed in paragraph (a)(3) of this section;

(ii) No person may approach on land not privately owned within one-half statutory mile or within sight of a Steller sea lion rookery site listed in paragraph (a)(3) of this section, whichever is greater, except on Marmot Island; and

(iii) No person may approach on land not privately owned within one and one-half statutory miles or within sight of the eastern shore of Marmot Island, including the Steller sea lion rookery site listed in paragraph (a)(3) of this section, whichever is greater.

(3) *Listed sea lion rookery sites.* Listed Steller sea lion rookery sites consist of the rookeries in the Aleutian Islands and the Gulf of Alaska listed in Table 1.

TABLE 1.—LISTED STELLER SEA LION ROOKERY SITES [1]

| Island | From | | To | | NOAA chart | Notes |
|---|---|---|---|---|---|---|
| | Lat. | Long. | Lat. | Long. | | |
| Outer I | 59°20.5 N | 150°23.0 W | 51°21.0 N | 150°24.5 W | 16681 | S quadrant. |
| Sugarloaf I | 58°53.0 N | 152°02.0 W | | | 16580 | whole island. |
| Marmot I | 58°13.0 N | 151°48.0 W | 58°09.5 N | 151°52.0 W | 16580 | SE quadrant. |
| Chirikof I | 55°47.5 N | 155°33.5 W | 55°48.5 N | 155°43.0 W | 16580 | S quadrant. |
| Chowiet I | 56°02.0 N | 156°41.0 W | 56°01.5 N | 156°44.0 W | 16013 | S quadrant. |
| Atkins I | 55°03.5 N | 159°18.5 W | | | 16540 | whole island. |
| Chernabura I | 54°47.5 N | 159°31.0 W | 54°45.5 N | 159°33.5 W | 16540 | SE corner. |
| Pinnacle Rock | 54°46.0 N | 161°46.0 W | | | 16540 | whole island. |
| Clubbing Rks(N) | 54°43.0 N | 162°26.5 W | | | 16540 | whole island. |
| Clubbing Rks(S) | 54°42.0 N | 162°26.5 W | | | 16540 | whole island. |
| Sea Lion Rks | 55°28.0 N | 163°12.0 W | | | 16520 | whole island. |
| Ugamak I | 54°14.0 N | 164°48.0 W | 54°13.0 N | 164°48.0 W | 16520 | E end of island. |
| Akun I | 54°17.5 N | 165°34.0 W | 54°18.0 N | 165°31.0 W | 16520 | Billings Head Bight. |
| Akutan I | 54°03.5 N | 166°00.0 W | 54°05.5 N | 166°05.0 W | 16520 | SW corner, Cape Morgan. |

TABLE 1.—LISTED STELLER SEA LION ROOKERY SITES [1]—Continued

| Island | From | | To | | NOAA chart | Notes |
|---|---|---|---|---|---|---|
| | Lat. | Long. | Lat. | Long. | | |
| Bogoslof I | 53°56.0 N | 168°02.0 W | | | 16500 | whole island. |
| Ogchul I | 53°00.0 N | 168°24.0 W | | | 16500 | whole island. |
| Adugak I | 52°54.5 N | 169°09.5 W | | | 16500 | whole island. |
| Yunaska I | 52°42.0 N | 170°38.5 W | 52°41.0 N | 170°34.5 W | 16500 | NE end. |
| Seguam I | 52°21.0 N | 172°35.0 W | 52°21.0 N | 172°33.0 W | 16480 | N coast, Saddleridge Pt. |
| Agligadak I | 52°06.25 N | 172°54.0 W | | | 16480 | whole island. |
| Kasatochi I | 52°10.0 N | 175°31.0 W | 52°10.5 N | 175°29.0 W | 16480 | N half of island. |
| Adak I | 51°36.0 N | 176°55.5 W | 51°38.0 N | 176°59.0 W | 16460 | SW point, Cape Yakak. |
| Gramp rock | 51°29.0 N | 178°20.5 W | | | 16460 | whole island. |
| Tag I | 51°33.5 N | 178°34.5 W | | | 16460 | whole island. |
| Ulak I | 51°20.0 N | 178°57.0 W | 51°18.5 N | 178°59.5 W | 16460 | SE corner, Hasgox Pt. |
| Semisopochnoi | 51°58.5 N | 179°45.5 E | 51°57.0 N | 179°46.0 E | 16440 | E quadrant, Pochnoi Pt. |
| Semisopochnoi | 52°01.5 N | 179°37.5 E | 52°01.5 N | 179°39.0 E | 16440 | N quadrant, Petrel Pt. |
| Amchitka I | 51°23.5 N | 179°26.0 E | 51°22.0 N | 179°23.0 E | 16440 | East Cape. |
| Amchitka I | 51°32.5 N | 178°50.0 E | | | 16440 | Column Rocks. |
| Ayugadak Pt | 51°45.5 N | 178°24.5 E | | | 16440 | SE coast of Rat I. |
| Kiska I | 51°56.5 N | 177°19.0 E | 51°58.0 N | 177°20.5 E | 16440 | W central, Lief Cove. |
| Kiska I | 51°53.0 N | 177°13.0 E | 51°54.0 N | 177°14.0 E | 16440 | Cape St. Stephen. |

[1] Each site extends from the first coordinates listed for latitude and longitude along the shoreline at mean lower low water to the second coordinates listed; or, if only one set of coordinates is listed, the site extends around the entire shoreline of the island at mean lower low water.

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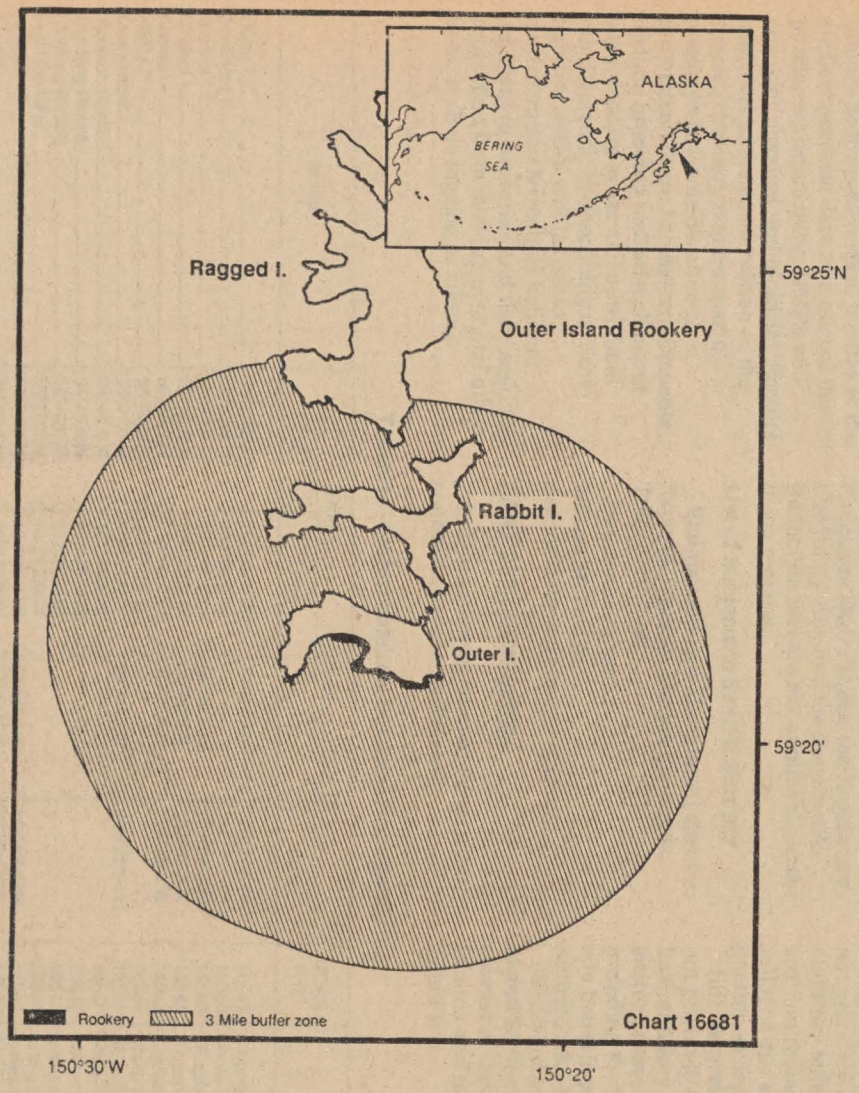
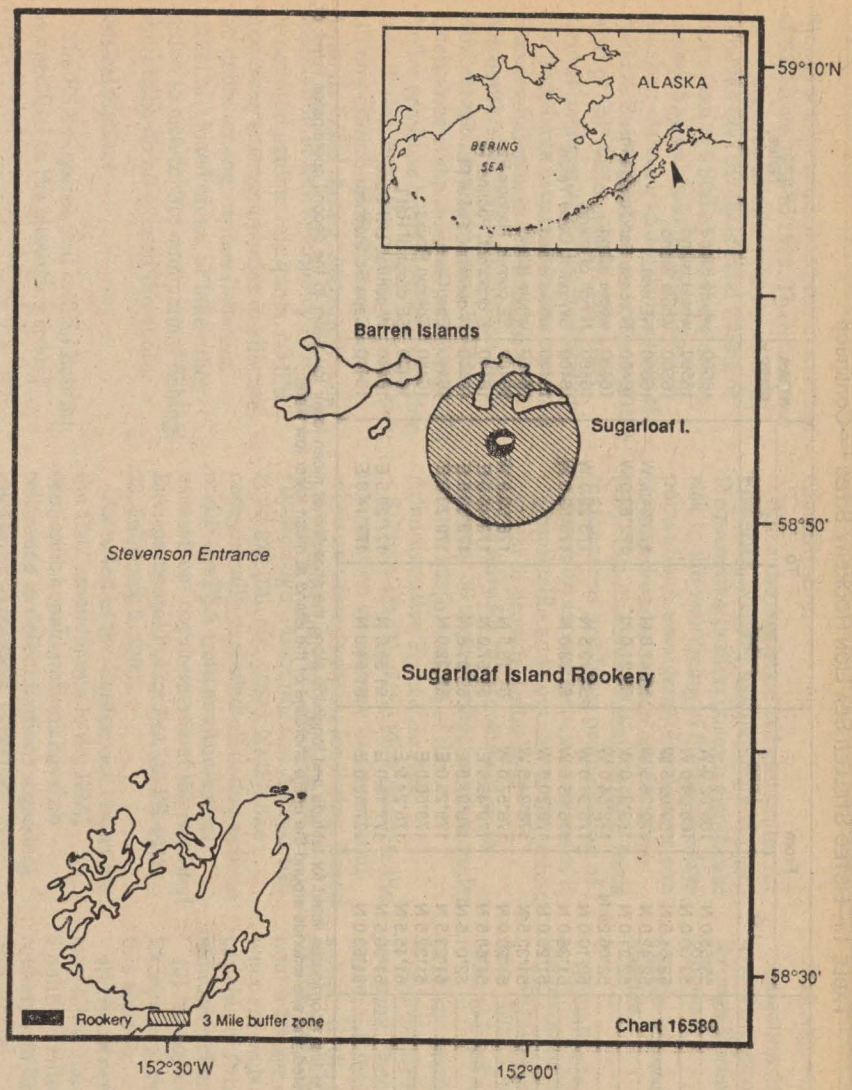
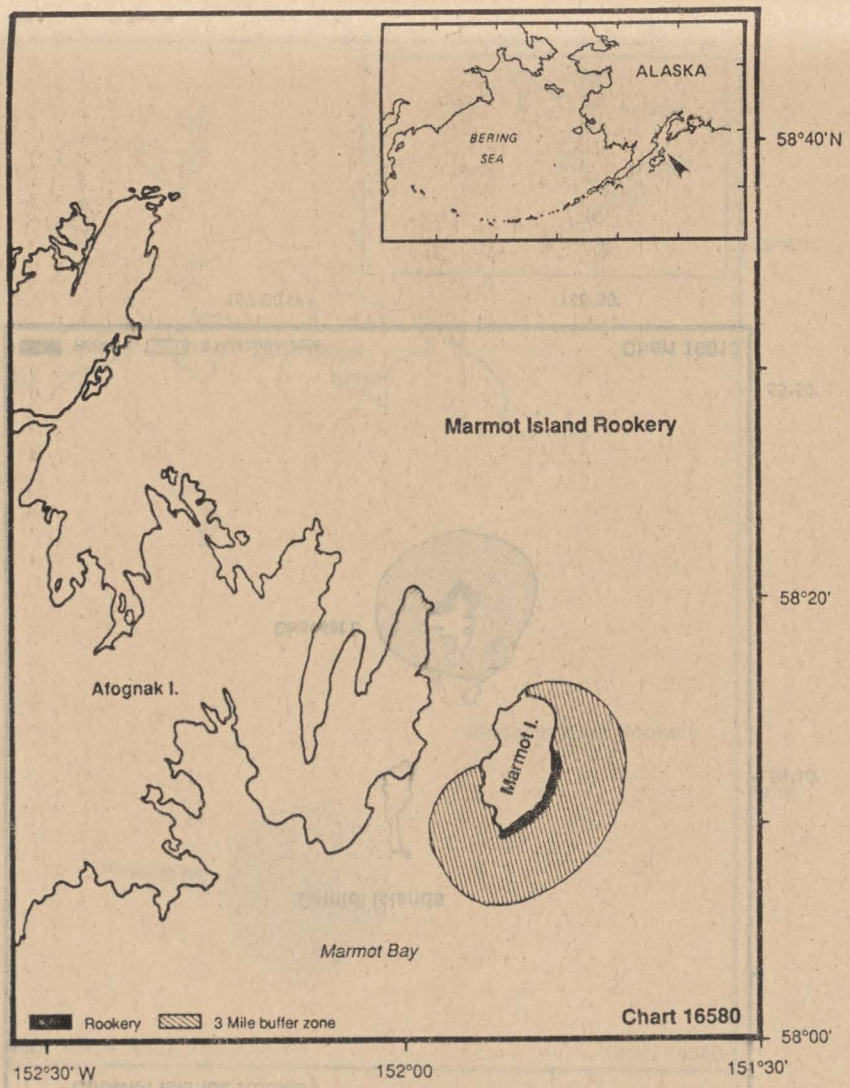
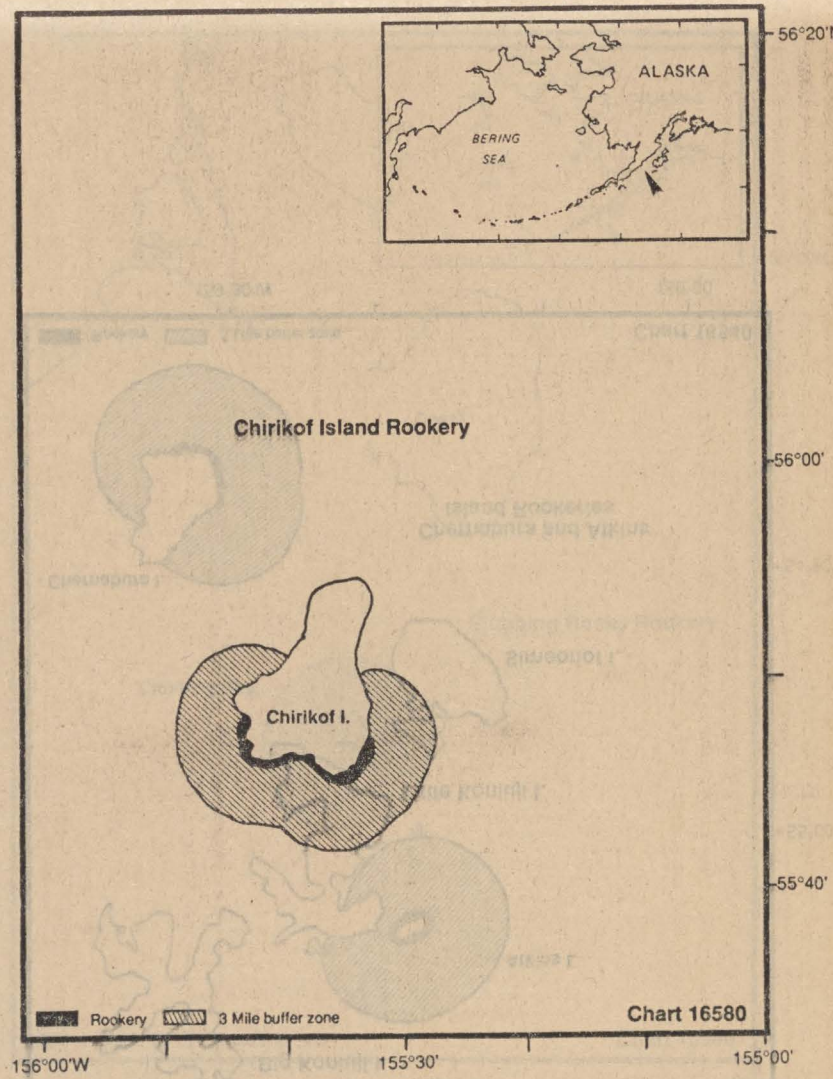
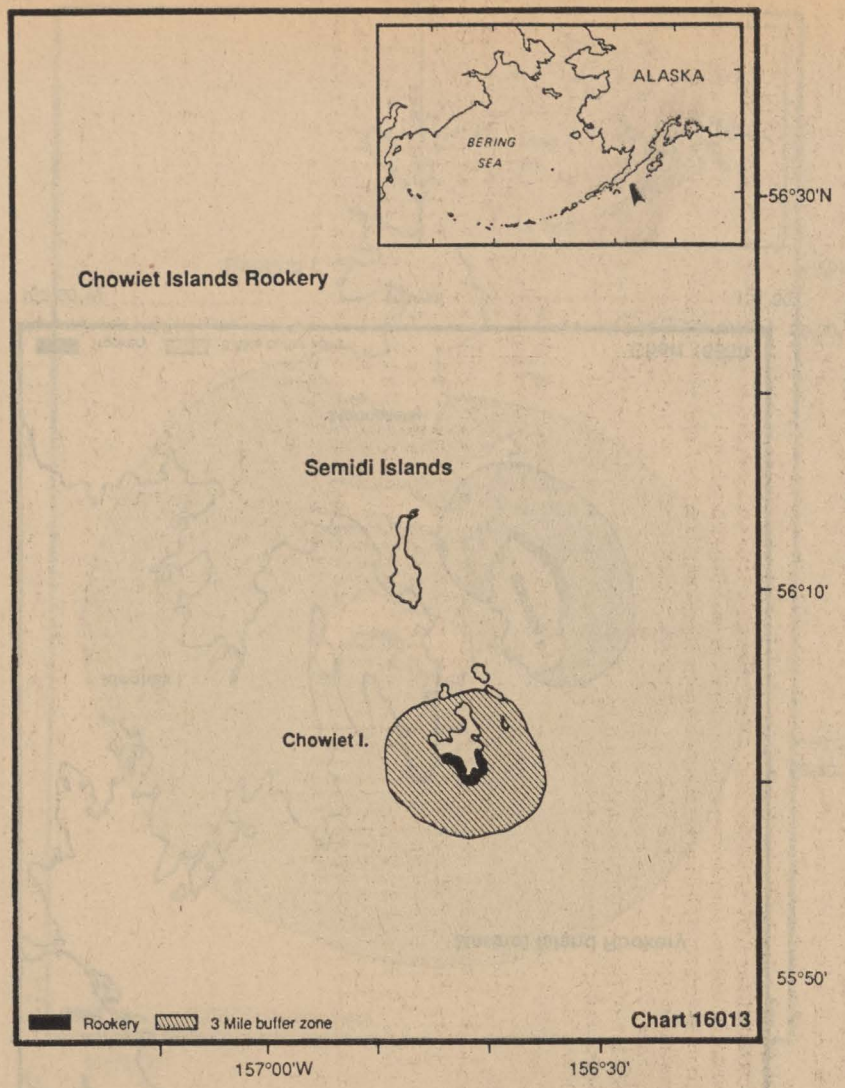
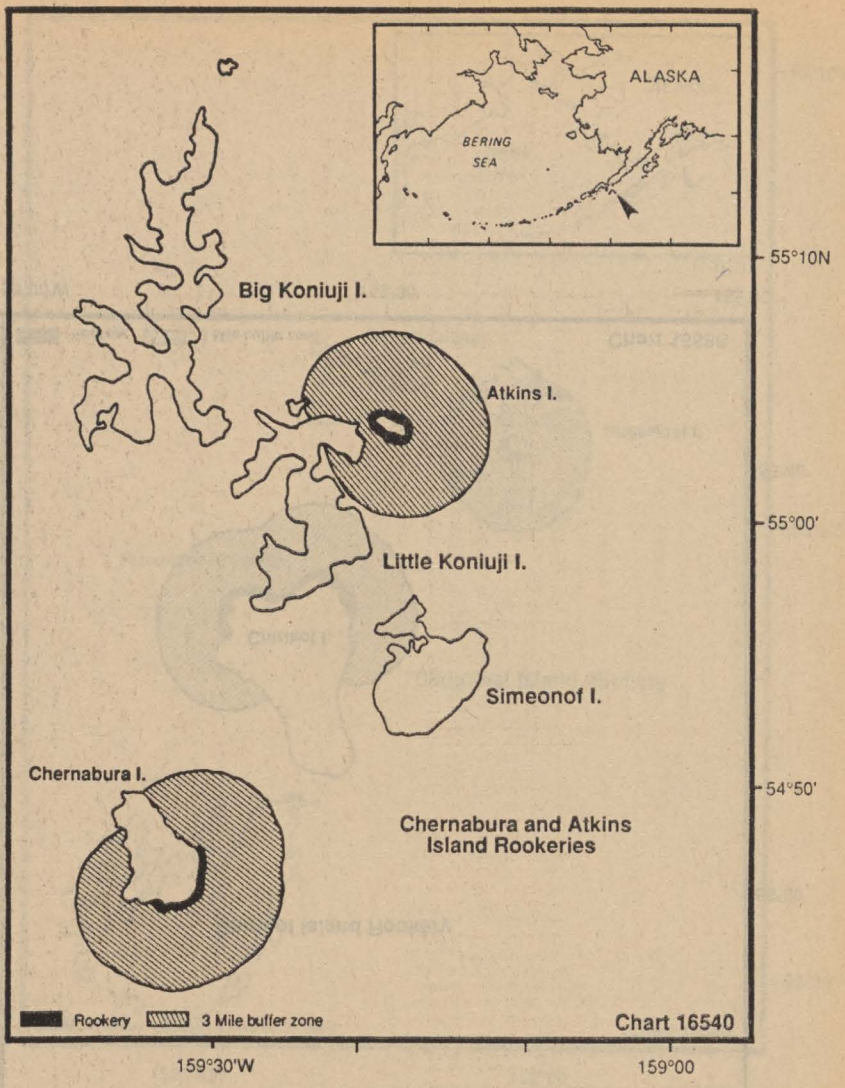

ALASKA
BERING SEA
Ragged I.
Outer Island Rookery
Rabbit I.
Outer I.
59°25'N
59°20'
Rookery
3 Mile buffer zone
Chart 16681
150°30'W
150°20'

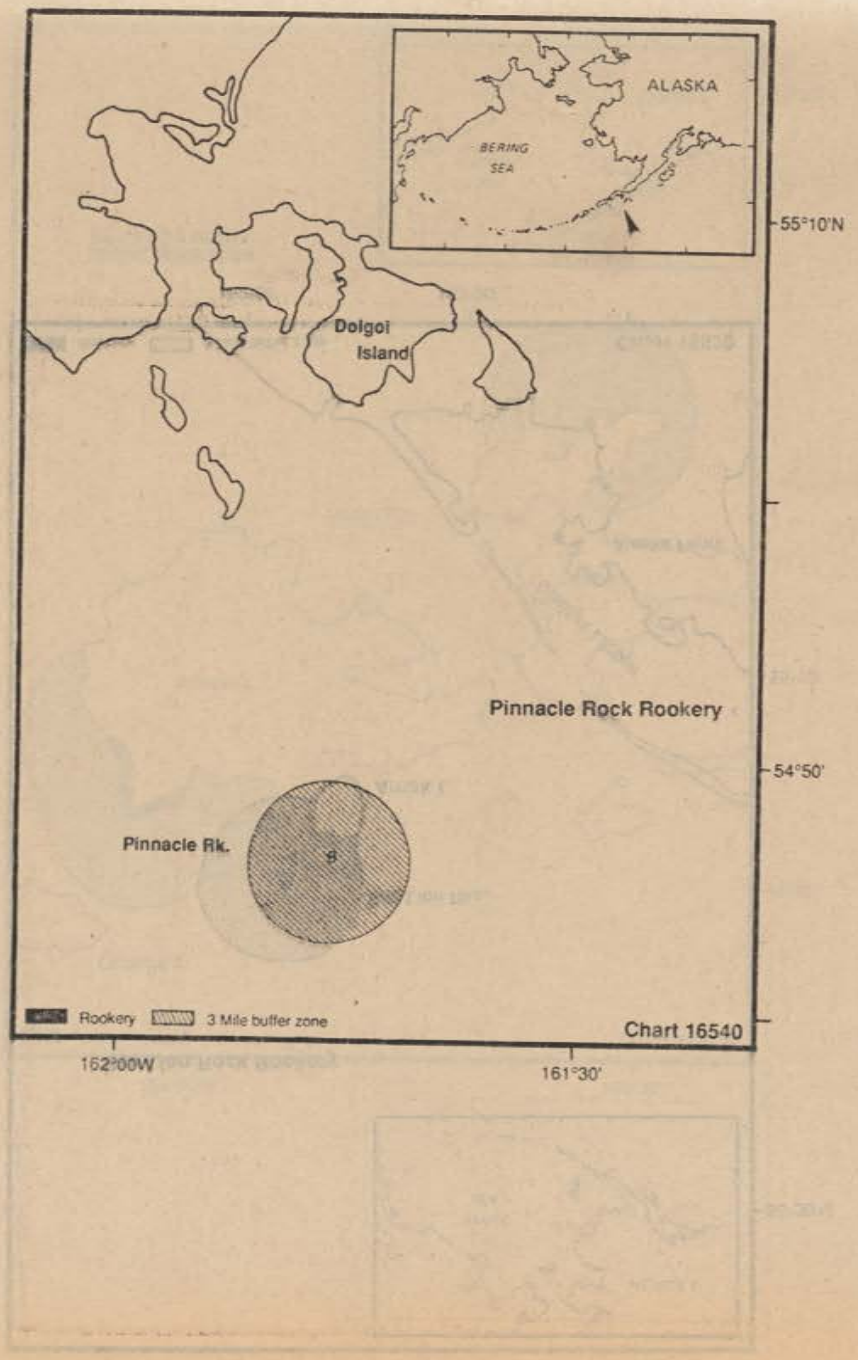

ALASKA
BERING SEA
59°10'N
Barren Islands
Sugarloaf I.
58°50'
Stevenson Entrance
Sugarloaf Island Rookery
58°30'
Rookery
3 Mile buffer zone
Chart 16580
152°30'W
152°00'

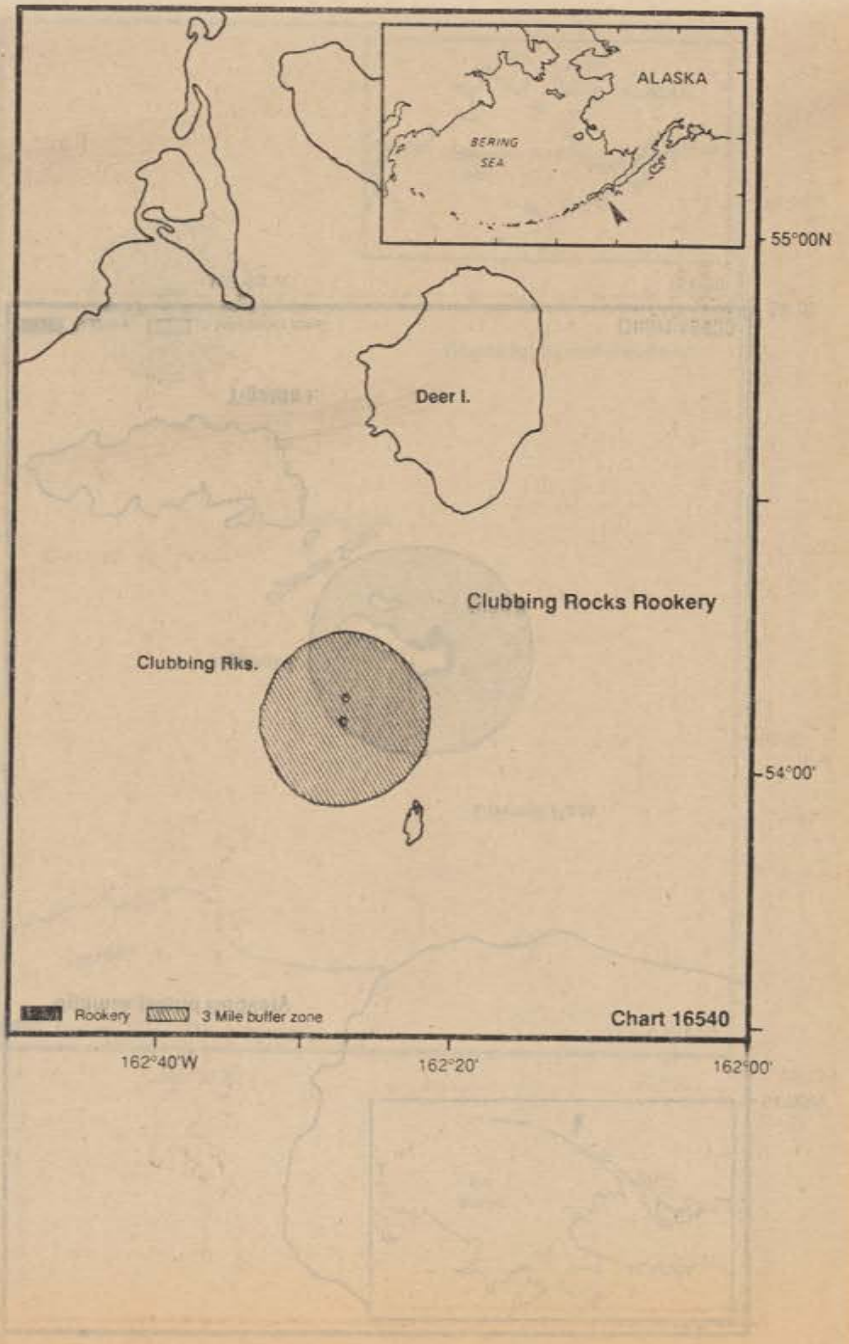

ALASKA
BERING SEA
Marmot Island Rookery
Afognak I.
Marmot I.
Marmot Bay
Rookery
3 Mile buffer zone
Chart 16580
58°40'N
58°20'
58°00'
152°30' W
152°00
151°30'

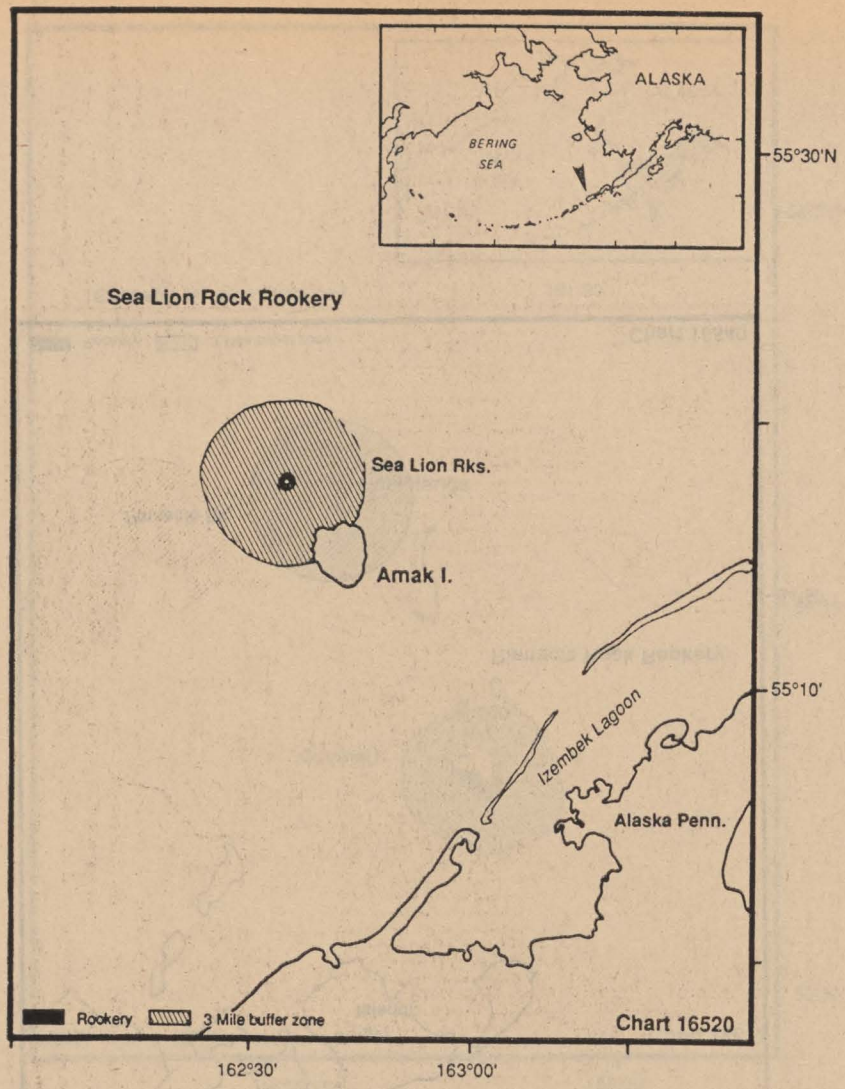

ALASKA
BERING SEA
Chirikof Island Rookery
Chirikof I.
Rookery
3 Mile buffer zone
Chart 16580
56°20'N
56°00'
55°40'
156°00'W
155°30'
155°00'

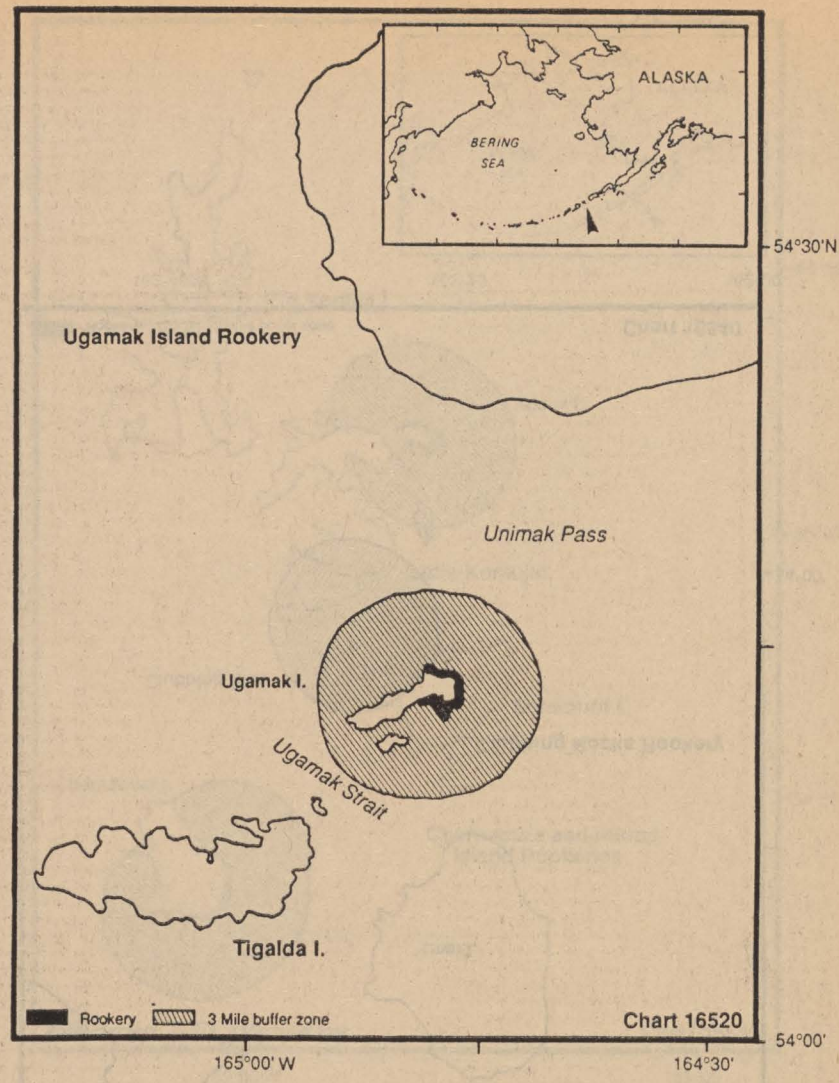

ALASKA
BERING SEA
Chowiet Islands Rookery
Semidi Islands
Chowiet I.
56°30'N
56°10'
55°50'
Rookery
3 Mile buffer zone
Chart 16013
157°00'W
156°30'

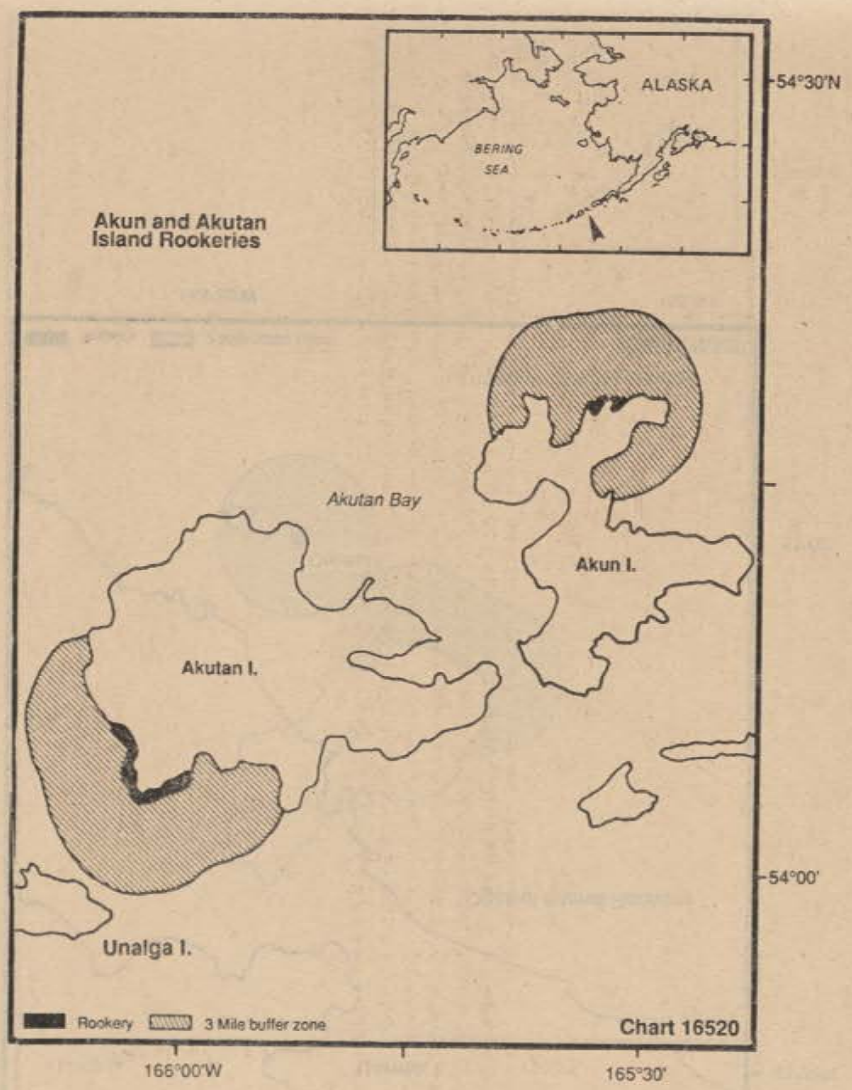

ALASKA
BERING SEA
Big Koniuji I.
Atkins I.
Little Koniuji I.
Simeonof I.
Chernabura I.
Chernabura and Atkins Island Rookeries
55°10N
55°00'
54°50'
Rookery
3 Mile buffer zone
Chart 16540
159°30'W
159°00

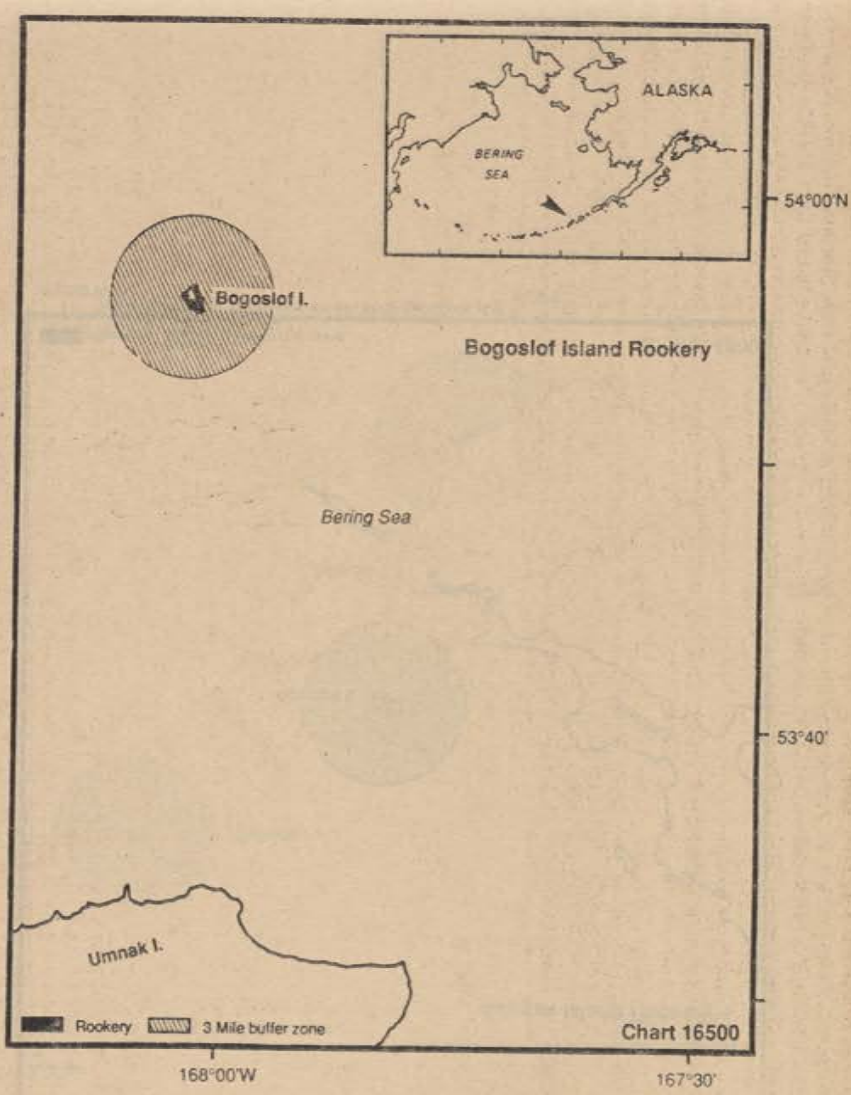

ALASKA
BERING SEA
55°10'N
Dolgoi Island
Pinnacle Rock Rookery
54°50'
Pinnacle Rk.
Rookery
3 Mile buffer zone
Chart 16540
162°00W
161°30'

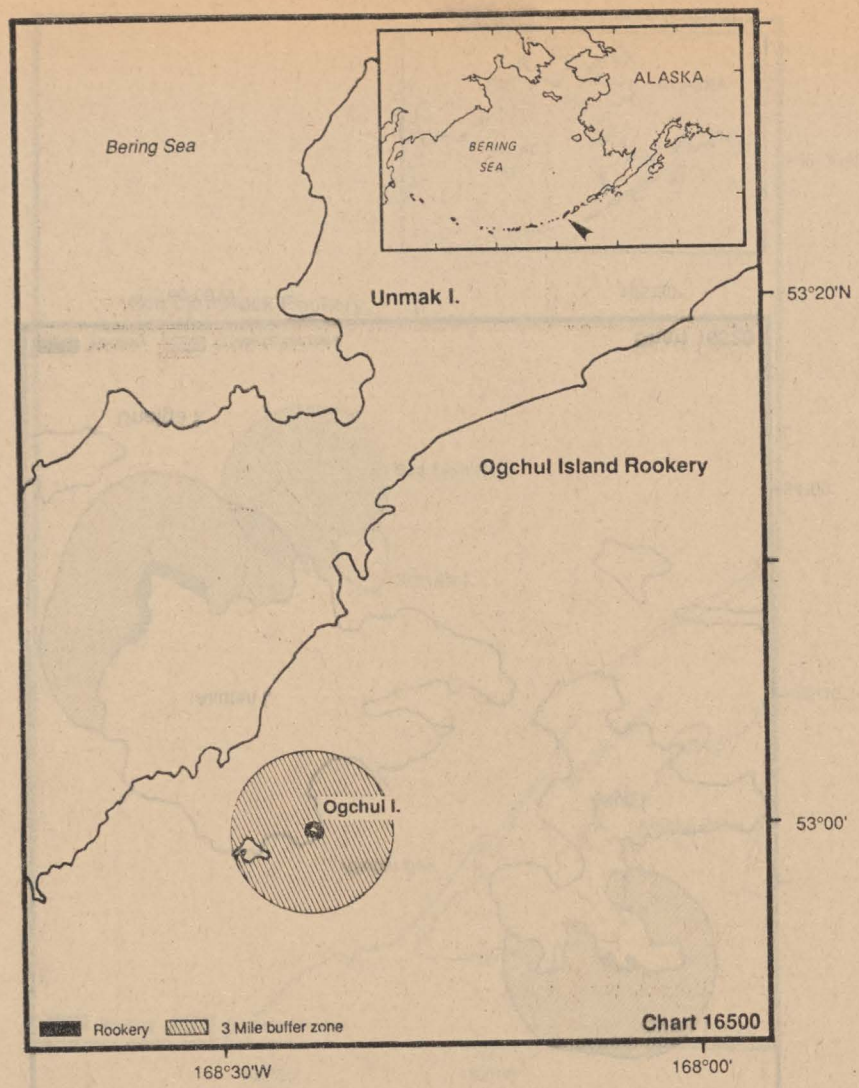

ALASKA
BERING SEA
55°00N
Deer I.
Clubbing Rocks Rookery
Clubbing Rks.
54°00'
Rookery
3 Mile buffer zone
Chart 16540
162°40'W
162°20'
162°00'

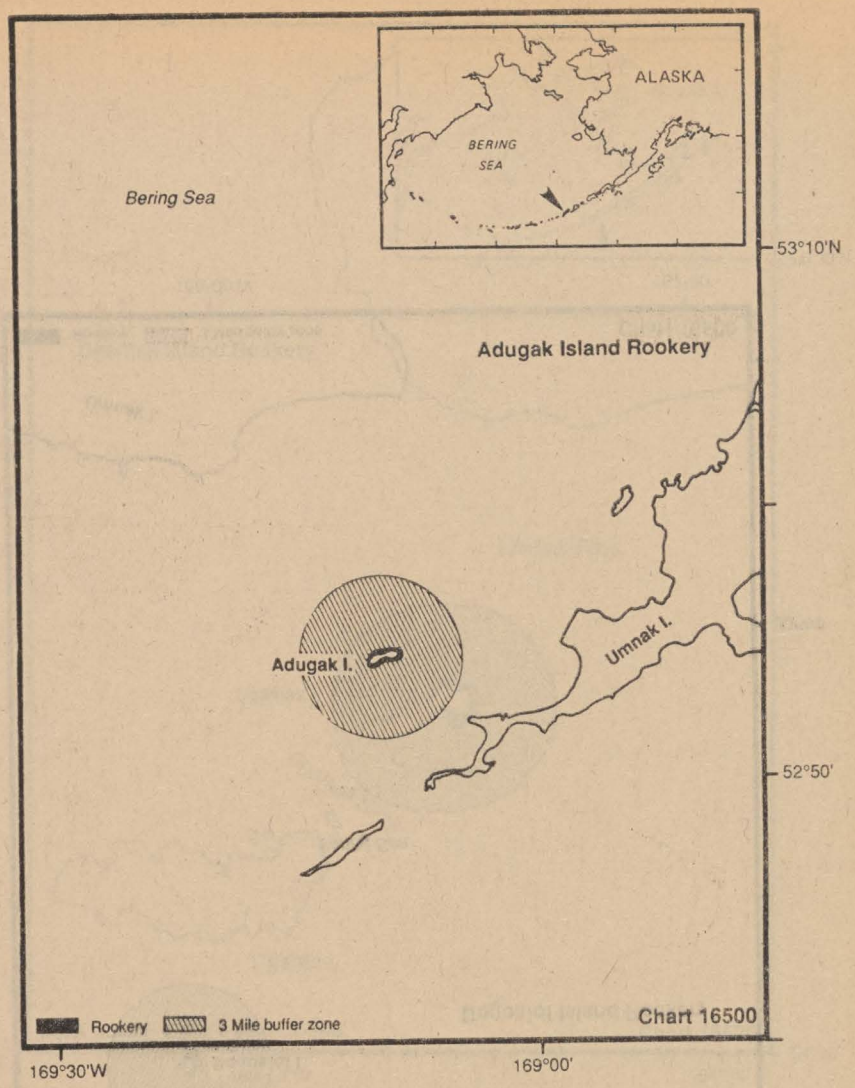

ALASKA
BERING SEA
Sea Lion Rock Rookery
Sea Lion Rks.
Amak I.
Izembek Lagoon
Alaska Penn.
55°30'N
55°10'
Rookery
3 Mile buffer zone
Chart 16520
162°30'
163°00'

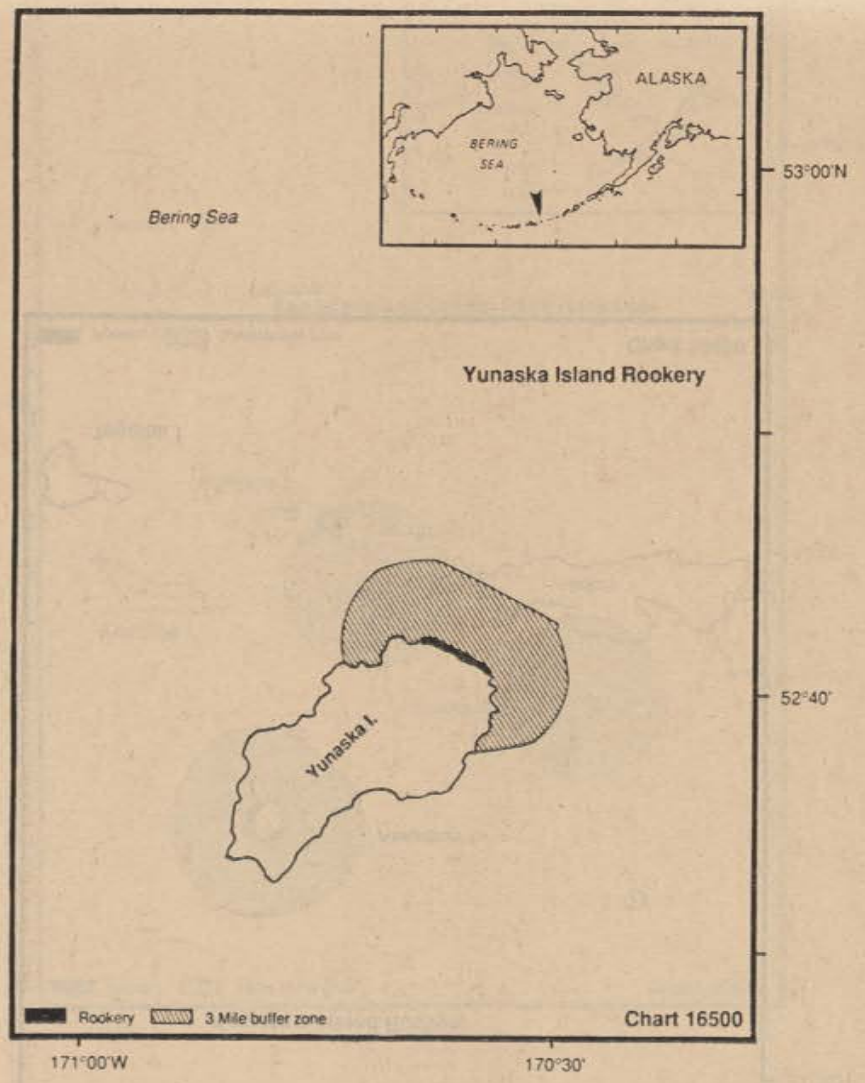

ALASKA
BERING SEA
Ugamak Island Rookery
Unimak Pass
Ugamak I.
Ugamak Strait
Tigalda I.
54°30'N
54°00'
Rookery
3 Mile buffer zone
Chart 16520
165°00' W
164°30'

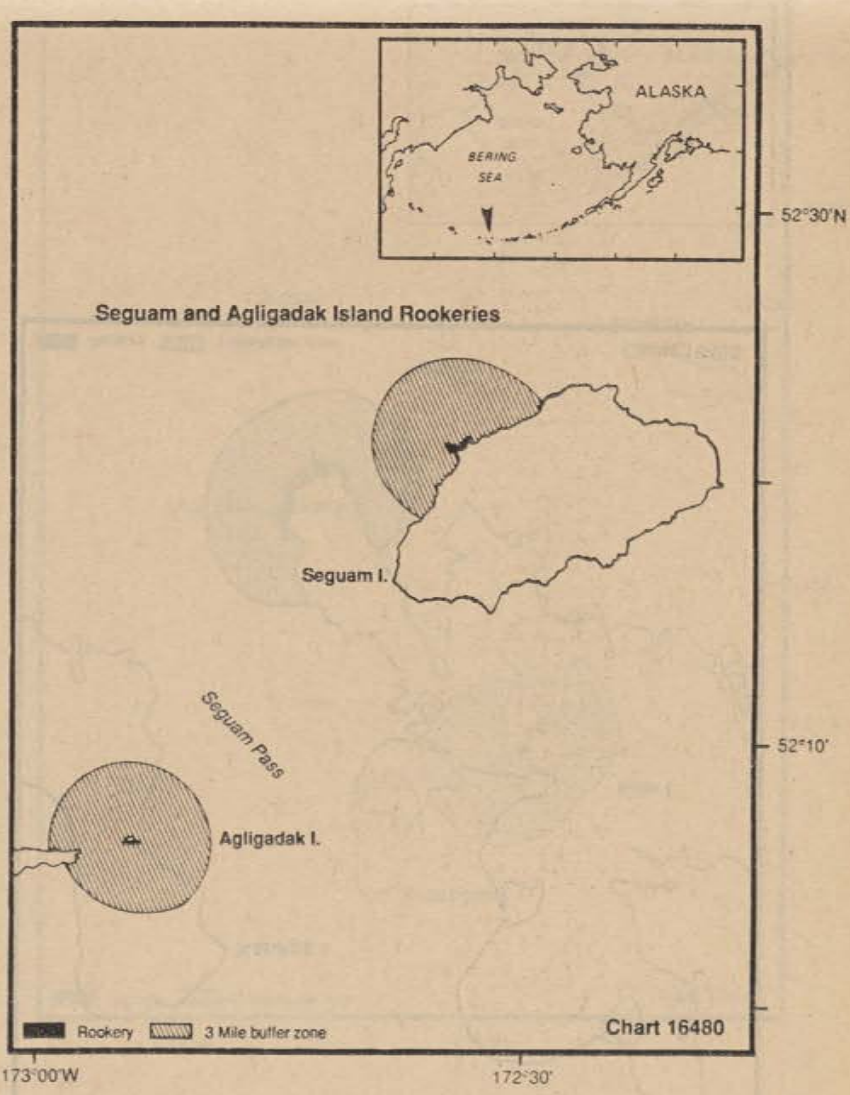

Akun and Akutan
Island Rookeries
ALASKA
BERING
SEA
54°30'N
Akutan Bay
Akun I.
Akutan I.
54°00'
Unalga I.
Rookery
3 Mile buffer zone
Chart 16520
166°00'W
165°30'

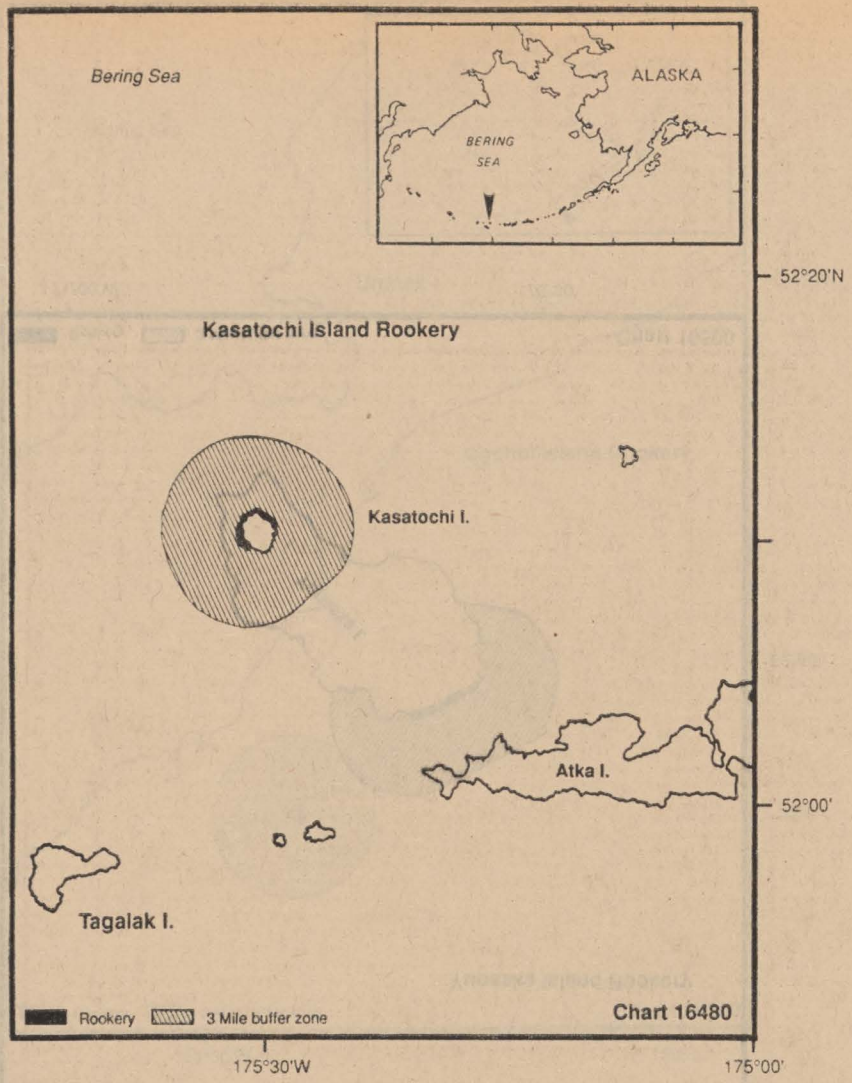

ALASKA
BERING
SEA
54°00'N
Bogoslof I.
Bogoslof Island Rookery
Bering Sea
53°40'
Umnak I.
Rookery
3 Mile buffer zone
Chart 16500
168°00'W
167°30'

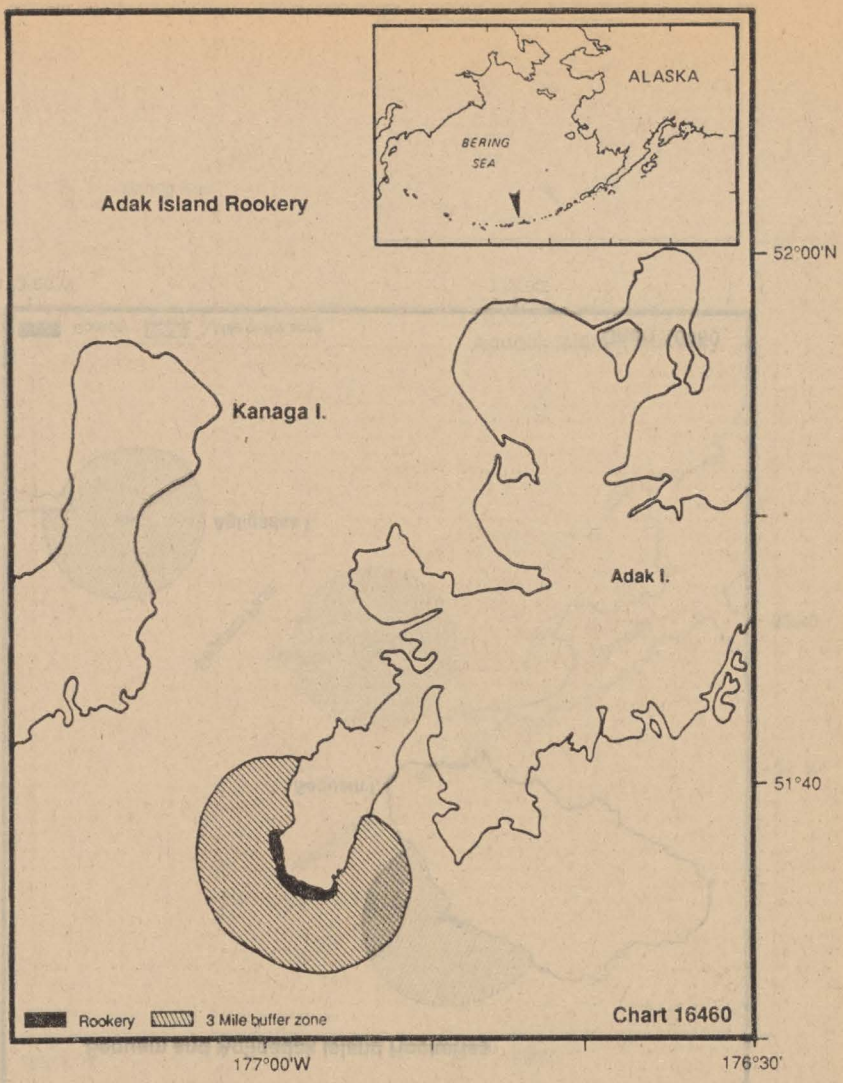

ALASKA
BERING SEA
Bering Sea
Unmak I.
53°20'N
Ogchul Island Rookery
Ogchul I.
53°00'
Rookery
3 Mile buffer zone
Chart 16500
168°30'W
168°00'

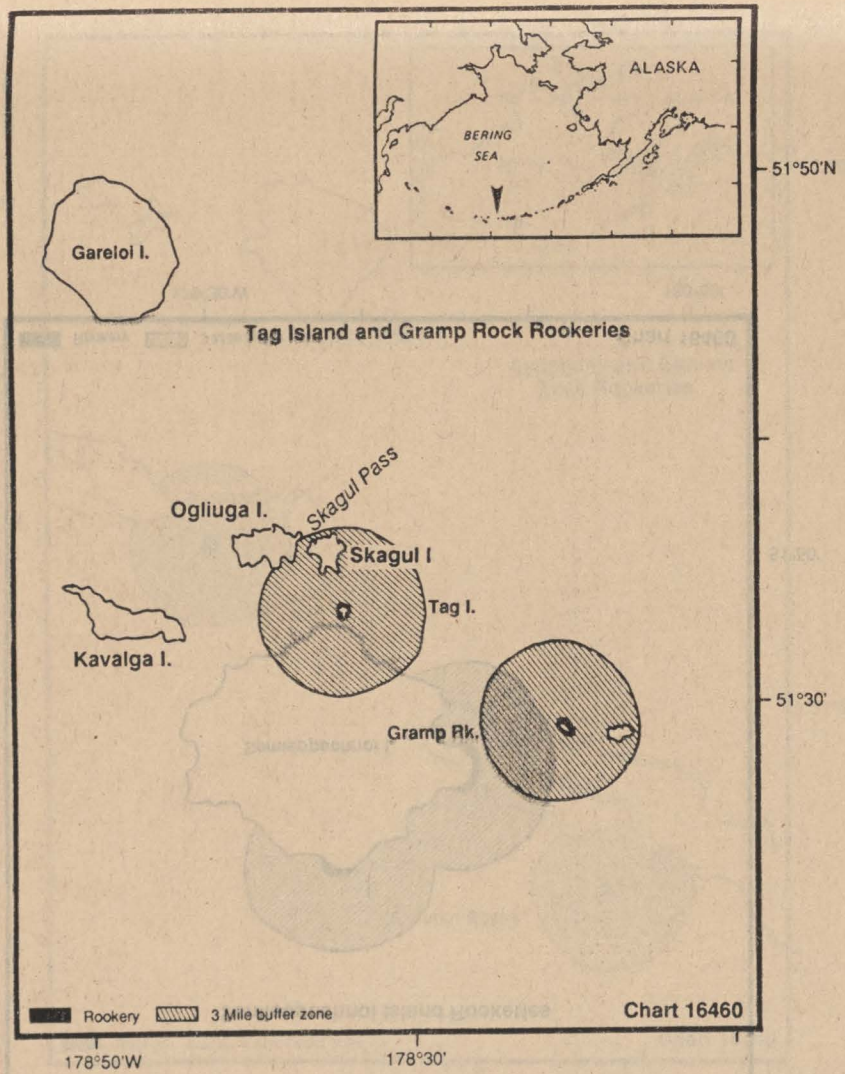

ALASKA
BERING SEA
Bering Sea
53°10'N
Adugak Island Rookery
Adugak I.
Umnak I.
52°50'
Rookery
3 Mile buffer zone
Chart 16500
169°30'W
169°00'

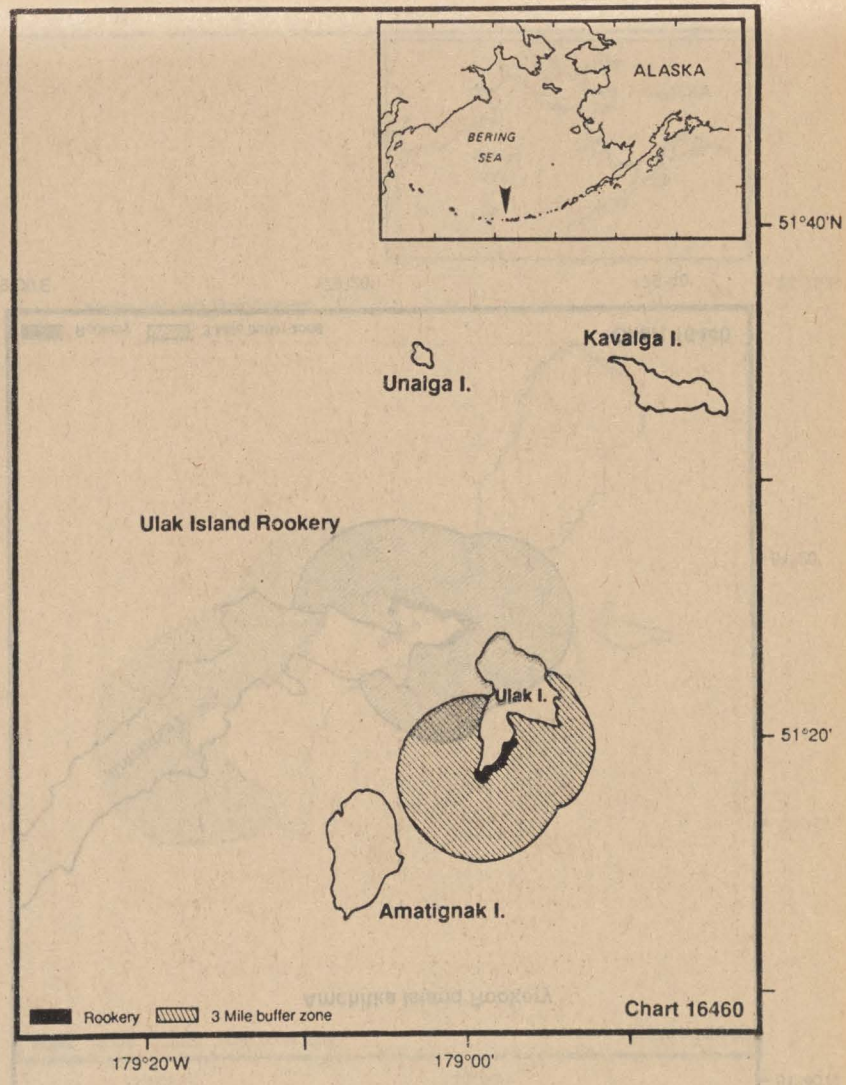

ALASKA
BERING SEA
Bering Sea
53°00'N
52°40'
Yunaska Island Rookery
Yunaska I.
Rookery
3 Mile buffer zone
Chart 16500
171°00'W
170°30'

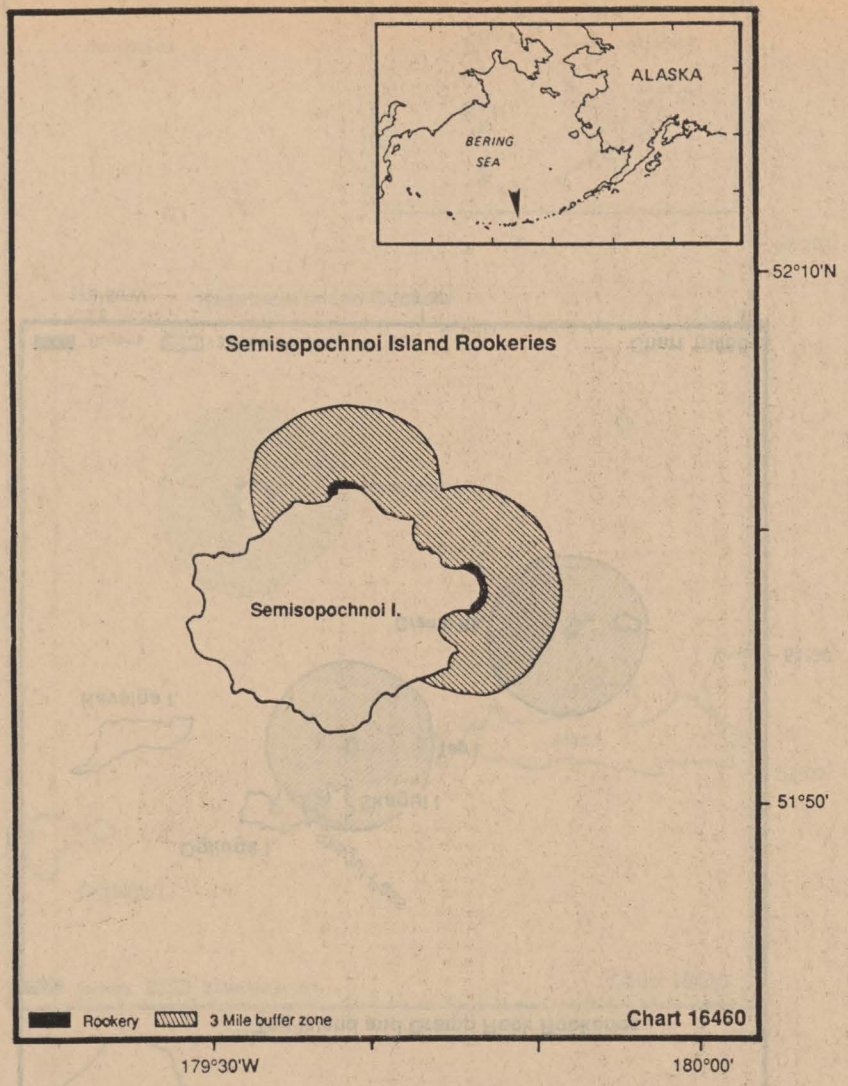

ALASKA
BERING SEA
52°30'N
Seguam and Agligadak Island Rookeries
Seguam I.
Seguam Pass
52°10'
Agligadak I.
Rookery
3 Mile buffer zone
Chart 16480
173°00'W
172°30'

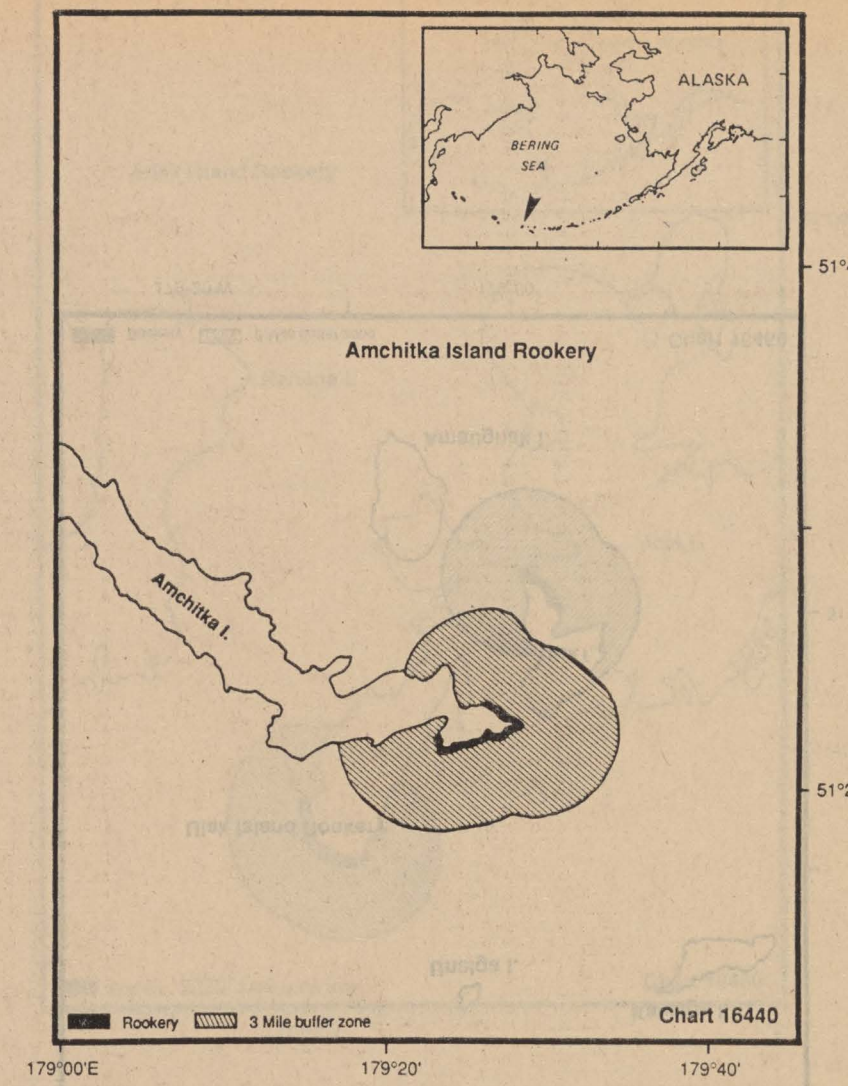

Bering Sea
ALASKA
BERING SEA
Kasatochi Island Rookery
52°20'N
Kasatochi I.
Atka I.
52°00'
Tagalak I.
Rookery
3 Mile buffer zone
Chart 16480
175°30'W
175°00'

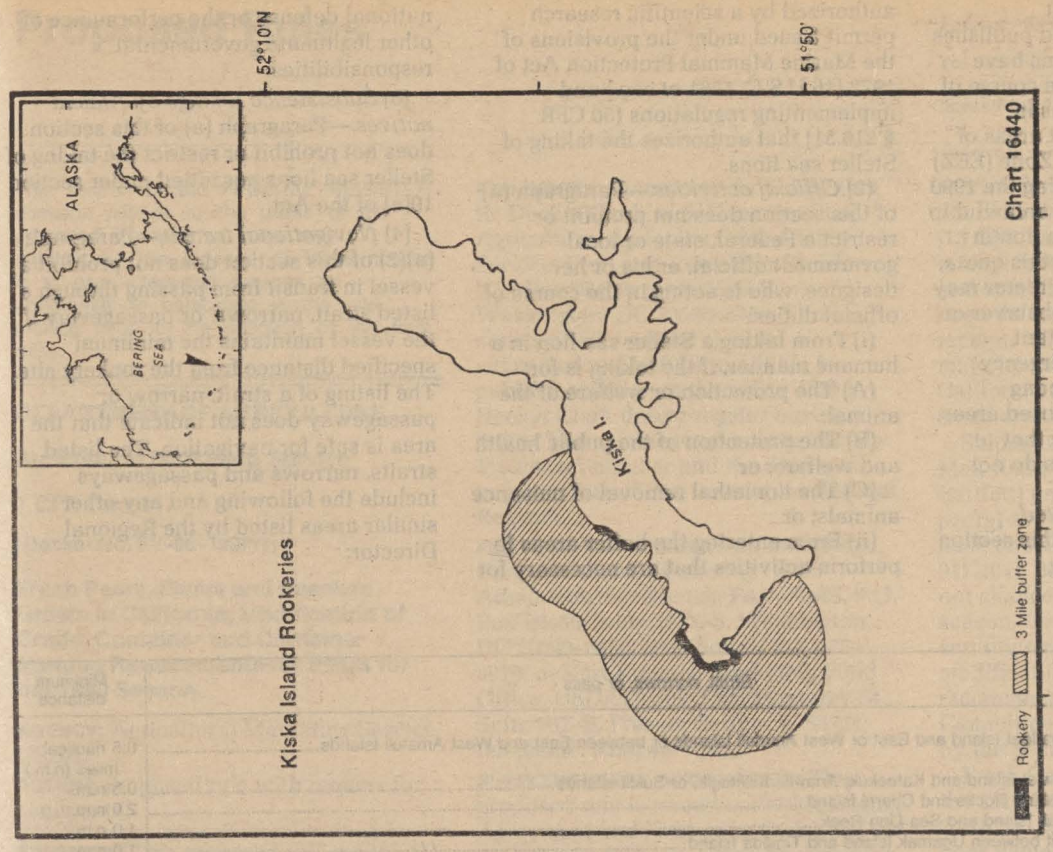

ALASKA
BERING SEA
Adak Island Rookery
52°00'N
Kanaga I.
Adak I.
51°40
Rookery
3 Mile buffer zone
Chart 16460
177°00'W
176°30'

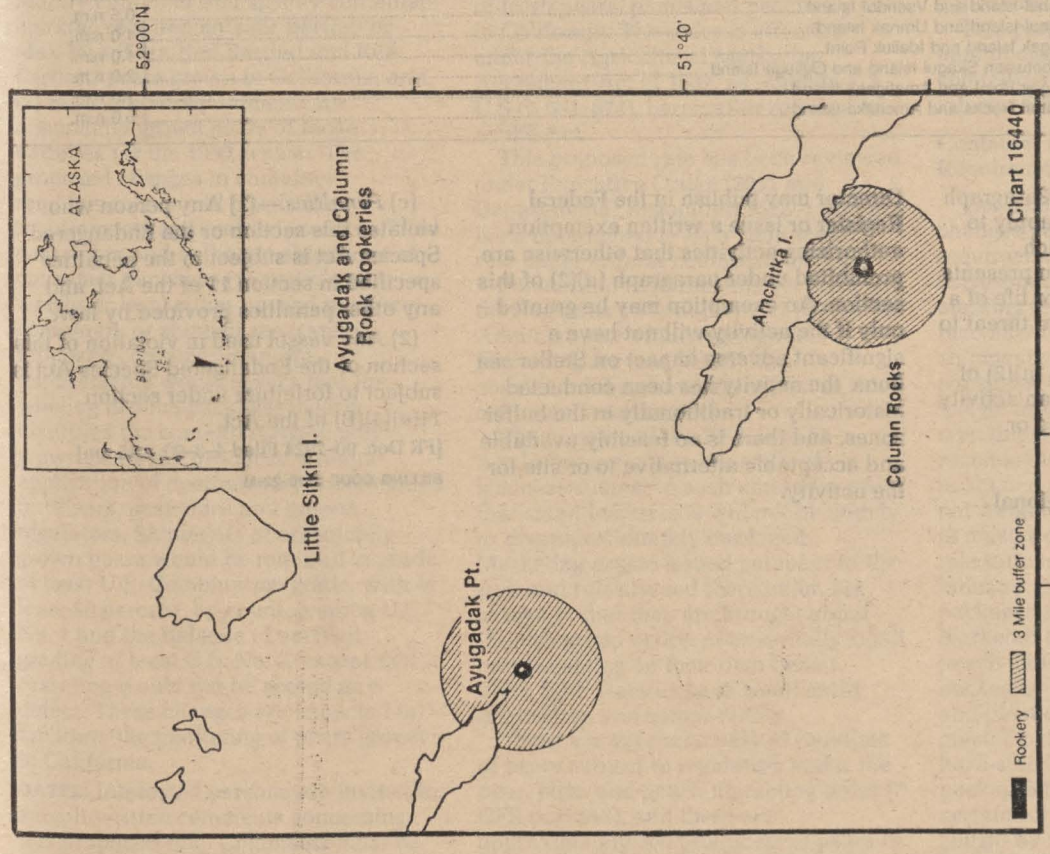

ALASKA
BERING SEA
Gareloi I.
Tag Island and Gramp Rock Rookeries
Ogliuga I.
Skagul Pass
Skagul I
Tag I.
Kavalga I.
Gramp Rk.
51°50'N
51°30'
Rookery
3 Mile buffer zone
Chart 16460
178°50'W
178°30'


ALASKA
BERING SEA
51°40'N
Unaiga I.
Kavalga I.
Ulak Island Rookery
Ulak I.
51°20'
Amatignak I.
Rookery
3 Mile buffer zone
Chart 16460
179°20'W
179°00'


ALASKA
BERING SEA
Semisopochnoi Island Rookeries
Semisopochnoi I.
52°10'N
51°50'
Rookery
3 Mile buffer zone
Chart 16460
179°30'W
180°00'


ALASKA
BERING SEA
Amchitka Island Rookery
Amchitka I.
51°40'N
51°20'
Rookery
3 Mile buffer zone
Chart 16440
179°00'E
179°20'
179°40'




BILLING CODE 3510-22-C

(4) *Quota.*—If the Assistant Administrator determines and publishes notice that 675 Steller sea lions have been killed incidentally in the course of commercial fishing operations in Alaskan waters and adjacent areas of the U.S. Exclusive Economic Zone (EEZ) west of 141° W longitude during the 1990 calendar year, then it will be unlawful to kill any additional Steller Sea lion in this area. In order to monitor this quota, the NMFS Alaska Regional director may require the placement of an observer on any fishing vessel. The Assistant Administrator may issue emergency rules to allocate the quota among various fisheries, establish closed areas, or take other action to ensure that commercial fishing operations do not exceed this quota.

(b) *Exceptions.*—(1) *Permitted activities.*—Paragraph (a) of this section does not apply to any activity authorized by a scientific research permit issued under the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 *et seq.*) and implementing regulations (50 CFR § 216.31) that authorizes the taking of Steller sea lions.

(2) *Official activities.*—Paragraph (a) of this section does not prohibit or restrict a Federal, state or local government official, or his or her designee, who is acting in the course of official duties:

(i) From taking a Steller sea lion in a humane manner, if the taking is for:

(A) The protection or welfare of the animal;

(B) The protection of the public health and welfare; or

(C) The nonlethal removal of nuisance animals; or

(ii) From entering the buffer areas to perform activities that are necessary for national defense or the performance of other legitimate governmental responsibilities.

(3) *Subsistence takings by Alaska natives.*—Paragraph (a) of this section does not prohibit or restrict the taking of Steller sea lions permitted under section 10(e) of the Act.

(4) *Navigational transit.*—Paragraph (a)(2) of this section does not prohibit a vessel in transit from passing through a listed strait, narrows, or passageway if the vessel maintains the minimum specified distance from the rookery site. The listing of a strait, narrow or passageway does not indicate that the area is safe for navigation. The listed straits, narrows and passageways include the following and any other similar areas listed by the Regional Director:

| Rookery | Strait, narrows, or pass | Minimum distance |
|---|---|---|
| Sugarloaf Island | Between Sugarloaf Island and East or West Amatuli Islands or between East and West Amatuli Islands | 0.5 nautical miles (n.m.) |
| Chowiet Island | Between chowiet Island and Kateekuk, Anawik, Kiliktagik, or Suklif Islands | 0.5 n.m. |
| Clubbing Rocks | Between Clubbing Rocks and Cherni Island | 2.0 n.m. |
| Sea Lion Rock | Between Amak Island and Sea Lion Rock | 1.0 n.m. |
| Ugamak Island | Ugamak Strait between Ugamak Island and Tigalda Island | 1.0 n.m. |
| Akutan Island | Akutan Pass between cape Morgan and Unalga Island | 1.0 n.m. |
| Ogchul Island | Between Ogchul Island and Vseridof Island | 0.5 n.m. |
| Ogchul Island | Between Ogchul Island and Umnak Island | 1.0 n.m. |
| Adugak Island | Between Adugak Island and Idaliuk Point | 1.0 n.m. |
| Tag Island | Skagul Pass between Skagul Island and Ogliuga Island | 2.0 n.m. |
| Ulak Island | Between Hasgox Point and Amatignak Island | 1.0 n.m. |
| Amchitka Island | Between Column Rocks and Amchitka Island | 5.0 n.m. |

(5) *Emergency situations.*—Paragraph (a)(2) of this section does not apply to an emergency situation in which compliance with that provision presents a threat to the health, safety, or life of a person or presents a significant threat to the vessel or property.

(6) *Exemptions.*—Paragraph (a)(2) of this section does not apply to an activity authorized by a prior published or written exemption. With the concurrence of the Assistant Administrator, the Alaska Regional Director may publish in the **Federal Register** or issue a written exemption authorizing activities that otherwise are prohibited under paragraph (a)(2) of this section. An exemption may be granted only if the activity will not have a significant adverse impact on Steller sea lions, the activity has been conducted historically or traditionally in the buffer zones, and there is no feasibly available and acceptable alternative to or site for the activity.

(c) *Penalties.*—(1) Any person who violates this section or the Endangered Species Act is subject to the penalties specified in section 11 of the Act, and any other penalties provided by law.

(2) Any vessel used in violation of this section or the Endangered Species Act is subject to forfeiture under section 11(e)(4)(B) of the Act.

[FR Doc. 90-7924 Filed 4-3-90; 8:45 am]

BILLING CODE 3510-22-M

# Proposed Rules

Federal Register
Vol. 55, No. 66
Thursday, April 5, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 917

[Docket No. FV-90-129PR]

## Fresh Pears, Plums and Peaches Grown in California; Modification of Grade, Container and Container Marking Requirements for Pears for the 1990 Season

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

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** This proposed rule would: (1) Modify container and specify container-marking requirements for Bartlett or Max-Red (Max Red Bartlett and Red Bartlett) pears grown in California, and (2) relax grade requirements for organically grown pears of those varieties for the 1990 season. The proposed changes in container requirements would clarify the requirements applicable to volume-filled containers and authorize shipments of consumer packages (15 pounds net weight or less) either packed in master containers or shipped separately. Proposed container-marking requirements would assure that the labeling of such packages clearly identifies the contents. Organically grown pears are produced without application of synthetically compounded fertilizers, pesticides and growth regulators. Shipments of organically grown pears would be required to grade at least U.S. Combination grade, with at least 50 percent, by count, grading U.S. No. 1 and the balance of each lot grading at least U.S. No. 2, except that russeting would not be scored as a defect. These changes are expected to facilitate the marketing of pears grown in California.

**DATES:** Interested persons are invited to submit written comments concerning this proposed rule. Comments must be received by May 7, 1990.

**ADDRESSES:** Comments should be sent to: Docket Clerk, U.S. Department of Agriculture, Agricultural Marketing Service, Fruit and Vegetable Division, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456. Three copies of all material should be submitted and will be available for public inspection in the office of the Docket Clerk during regular business hours. The comments should reference the docket number and the date and page number of this issue of the Federal Register.

**FOR FURTHER INFORMATION CONTACT:** George Kelhart, Marketing Order Administration Branch, F&V, AMS, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456, telephone: (202) 475-3919, or Kurt Kimmel, Marketing Field Office, USDA/AMS, 2202 Monterey St., Suite 102-B, Fresno, California 93721; telephone: (209) 487-5901.

**SUPPLEMENTARY INFORMATION:** This proposed rule is issued under Marketing Agreement and Marketing Order No. 917 (7 CFR part 917) regulating the handling of fresh pears, plums and peaches grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

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

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

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

There are approximately 45 handlers of pears subject to regulation under the pear, plum and peach marketing order (7 CFR part 917), and there are approximately 300 producers of pears in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (SBA) (13 CFR 121.2) as those whose gross annual receipts are less than $3,500,000, and small agricultural producers have been defined as those having annual receipts of less than $500,000. The majority of handlers and producers of California pears may be classified as small entities.

Shipments of California Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) pears (hereinafter referred to as pears) are regulated by grade, size and pack under Pear Regulation 12 (7 CFR 917.461). Because these regulations do not change substantially from season to season, they have been issued on a continuing basis, subject to amendment, modification or suspension as may be recommended by the Pear Commodity Committee (committee) and approved by the Secretary.

Fresh California pears shipped during the 1989 season totalled approximately 3,378,786 containers. The packinghouse door value of the pears in 1989 was approximately $19.2 million.

This proposed rule is based upon unanimous recommendations of the committee and other available information.

### Container and Container-Marking Requirements

The committee proposed that two changes be authorized in container requirements for pears and corresponding changes in container-marking requirements. The first recommendation would authorize shipments of pears in consumer packages, weighing 15 pounds net weight or less, packed in master containers. The committee also recommended authorizing shipment of pears in consumer packages, 15 pounds net weight or less, which are not packed in master containers. These two relaxations would enable the pear industry to market individual consumer packages similar to those successfully marketed by the California nectarine, peach and plum industries. Consumer packages for those fruits are small mesh and plastic bags (usually packed in master containers) and four to 14 pound hard-sided, family-sized boxes. Such packages have become popular in certain retail markets and have been sought by food service outlets, particularly hotels and restaurants, and

in some European countries. The committee believes that the use of different sized packages should help meet the needs of the marketplace. The committee authorized for the 1989 season, with the Department's approval, the test marketing of consumer-sized packages.

These proposed changes would be implemented by revising the following provisions in § 917.461, Pear Regulation 12.

Paragraph (a)(2) of § 917.461 provides a minimum size requirement of size 165 for all pears. In proposed paragraph (a)(2), the words ", including consumer packages in master containers and consumer packages not in master containers," would be inserted after the word "container." This would require that pears packed in consumer packages meet the same minimum size requirements currently in effect for pears packed in boxes or containers. Such boxes or containers include: 44-pound standard pear boxes, 36, 22, and 18 pound volume-filled containers, 22-pound volume-filled L.A. lugs, and bulk bins containing 300 pounds or more of pears.

Paragraph (a)(3) of § 917.461 specifies marking requirements for containers of pears. In proposed paragraph (a)(3), the words ", other than consumer packages in master containers and consumer packages not in master containers," would be inserted following the words "Any box or container" to exempt consumer packages from the marking requirements of paragraph (a)(3). New marking requirements for consumer packages would be specified in new paragraphs (a)(7) and (a)(8), discussed later.

Paragraph (a)(4) of § 917.461 specifies pack requirements for containers of pears. In proposed paragraph (a)(4), the words ", other than consumer packages in master containers and consumer packages not in master containers," would be inserted following the words "closed containers,." This would exempt consumer packages from the requirements of standard pack as found in the U.S. Standards for Summer and Fall Pears (7 CFR 51.1260 to 51.1280). These requirements specify that pears be of similar size and number, and be tightly packed and arranged lengthwise in well filled containers. The consumer packages contemplated by the committee include plastic and net bags. It would be impractical to apply to bag containers the standard pack requirements on tightness of pack and arrangement of the fruit. Therefore the committee recommended that all consumer packages, whether bags or small boxes, be exempt from the requirements of standard pack.

The requirements of paragraph (a)(6) are intended to apply only to volume-filled boxes or containers of pears not packed in rows and not wrap packed. For clarification, this action proposes to revise the wording at the beginning of existing paragraph (a)(6) by inserting the words "volume-filled" before the words "box or container" and removing the words "in volume-filled cartons" later in the first sentence to remove reference to boxes or containers packed inside such cartons. Also, for consistency and clarity, the words "carton" and "cartons" appearing in (i), (iii), (iv), and in the proviso, should be replaced with the words "box or container" and "boxes or containers" as appropriate.

Additionally in paragraph (a)(6), it is proposed that the words ", other than consumer packages in master containers and consumer packages not in master containers," be inserted following the words "* * * not wrap packed)." This would exempt consumer packages from the volume-fill requirements specified in paragraph (a)(6) (listed below) because it would be impractical to pack consumer bags to the same standards as hard-sided boxes. The committee expects that smaller, hard-sided consumer boxes, recommended under this proposed rule, would be shipped to specialty markets which usually require fruit to be packed in rows and wrap packed. Fruit so packed is currently exempt from requirements of paragraph (a)(6) and the committee recommended that smaller consumer packages also be exempt.

Thus, under this proposed rule, paragraph (a)(6) would be revised to read as follows: "Any volume-filled box or container of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears (not packed in rows and not wrap packed), other than consumer packages in master containers and consumer packages not in master containers, unless (i) such boxes or containers are well filled with pears fairly uniform in size; (ii) such pears are packed fairly tight; (iii) there is an approved top pad in each box or container that will cover the fruit with no more than ¼ inch between the pad and any side or end of the box or container; and (iv) the top of the box or container shall be securely fastened to the bottom: *Provided*, That 10 percent of the boxes or containers in any lot may fail to meet the requirements of this paragraph."

This proposed rule would add provisions specifying marking requirements for master containers and consumer packages. The recommended marking requirements would assure that labels on master containers of consumer packages and labels on individually shipped consumer packages clearly describe the contents of such containers and packages. This information should facilitate the marketing of the such packages. A new paragraph (a)(7) would be added to § 917.461, Pear Regulation 12, establishing marking requirements for master containers when filled with consumer packages of pears. It is proposed that such master containers be marked with the following information: (1) The varietal name and size description of the contents; (2) the number of consumer packages in the master container; (3) the net weight of each consumer package; and (4) the name and complete address of the handler. This information would be printed on one outside end of the master containers, in plain sight and in plain letters.

Also, a new paragraph (a)(8) would be added to § 917.461, Pear Regulation 12, establishing marking requirements for consumer packages of pears shipped individually (not packed in master containers). It is proposed that all consumer packages (including those packed in master containers) be marked with the name and complete address of the handler and the net weight of the consumer package. Consumer packages shipped individually would also be marked with the varietal name, number and size description of the pears contained in the package. This additional information on consumer packages shipped individually would provide more information on the contents of the consumer packages and thus should facilitate marketing of the pears in such packages.

The committee indicated that a new definition is necessary to differentiate consumer packages from other packages or containers currently authorized. Thus, a new paragraph (b)(6) is recommended to be added to § 917.461, Pear Regulation 12, defining consumer packages to mean packages or boxes holding 15 pounds or less net weight of pears. According to the committee, such consumer packages, for example, could be one or two pound mesh and plastic bags (usually packed in master containers) and four to 14 pound hard-sided, family-sized boxes. As discussed above, such consumer packages have become popular in certain retail and specialty markets, and have been sought by food service outlets, hotels and restaurants.

It is the Department's view that the proposed changes allowing the hipment

of consumer packages would provide handlers with more marketing flexibility and permit them to meet the needs of the marketplace more effectively. These changes are expected to be beneficial to the California pear industry and are not expected to result in additional marketing costs.

**Organically Grown Grade Requirements**

This proposed rule would relax grade requirements for organically grown pears for the 1990 season to allow handlers to better meet the market needs for such pears.

At the committee's recommendation, the department issued an interim final rule (54 FR 32794, August 10, 1989) and a final rule (54 FR 46714, November 7, 1989) that relaxed the grade requirements for organically grown pears for the 1989 marketing season only. That relaxation authorized organically grown pears to be at least U.S. Combination grade, and lowered from 80 percent to 50 percent, by count in any lot, pears grading at least U.S. No. 1, with the balance of the lot grading at least U.S. No. 2 quality.

"Organically grown" pears would continue to be defined as pears which are produced, harvested, distributed, stored, processed and packaged without the application of synthetically compounded fertilizers, pesticides or growth regulators. Additionally, no synthetically compounded fertilizers, pesticides or growth regulators shall be applied by the grower to the orchard to which the pears are grown for 12 months prior to the appearance of flower buds and throughout the entire growing and harvest season for pears (54 FR 32796). This definition is consistent with applicable provisions of the term "originically grown" as defined in § 26569.11(a)(1) and (2) of the California Health and Safety Code, as enacted by the California Organic Food Act of 1979, as amended. Also, the California Department of Food and Agriculture (CDFA) currently requires that all agricultural producers register their chemical use. Most California producers of organic fruit are members of associations which certify that produce is grown without the aid of synthetically compounded fertilizers, pesticides or growth regulators.

Handlers who shipped organic pears had to provide, upon request, proof that the pears were grown in accordance with organic provisions cited above. The relaxation permitted the shipment of organically grown pears with an increase in appearance defects and enabled handlers of organically grown pears to better meet the needs of their buyers.

After review of organic pear production and marketing during the 1989 season, the committee recommended to continue, for the 1990 pear marketing season, the 1989 requirements (54 FR 46714, November 7, 1989) for organically grown pears. The committee also recommended that russeting should not be scored as a defect against organically grown pears. While 1989 crop quality was high, the committee found that russeting continued to be a problem for organically grown pears. There is no organically acceptable way to control russeting. Because russeting is a cosmetic defect that does not affect flavor or eating quality, and does not have a significant effect on the marketing of organic pears, the committee recommended that regulations should not restrict the marketing of such pears with russeting defects during the 1990 season.

The committee believes that the organic pear market continues to be a viable market with growth potential for the industry. It is a market that the committee believes handlers should be allowed to meet. This action would provide additional opportunities for producers to utilize organic cultural practices to meet consumer demand in these markets.

Under this proposal, field officers of the committee would closely monitor the packing of organically growth pears during the 1990 season. Handlers who intend to ship organically grown pears in accordance with this proposed rule would be required to provide upon request to the committee, with the approval of the Secretary, information to indicate that the pears were produced in accordance with the provisions of paragraph (b)(5) of § 917.461. This would help assure that the relaxed requirements would be applied only to organically grown pears. The committee, with the approval of the Secretary, has the authority to require handlers to furnish information as may be necessary to perform its duties under the marketing order.

Size, container and pack requirements specified in § 917.461, including changes proposed in this rulemaking, would apply to organically grown pears. For the 1990 marketing season, the grade requirement for non-organically grown pears will continue to be at least U.S. Combination with not less than 80 percent, by count, of the pears grading at least U.S. No. 1, with the balance of the fruit grading at least U.S. No. 2.

The Department believes that the increase in appearance defects, ie., russeting, in organically grown pears, will not adversely affect marketing conditions for non-organically grown pears, particularly since organic fruit is normally sold in specialty markets. This proposed action is expected to allow organic pear producers to market a larger portion of their production and provide them with the flexibility to meet the needs of this market.

The information obtained in the marketing of organically grown pears in the 1990 shipping season will be used to evaluate continuation of such shipments in future seasons.

It is also proposed that a change be made to § 917.461(b)(3) for clarity.

Based on available information, the Administrator of the AMS has determined that the changes proposed in this rulemaking would not have a significant impact on a substantial number of small entities.

The committee's recommendation, and all written comments timely received in response to this proposed rule will be considered before any determination is made on the proposed changes in this document. Interested persons are encouraged to submit their reasons in support of or in opposition to these proposed rules.

**List of Subjects in 7 CFR Part 917**

Marketing agreements, Peaches, Pears, Plums, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 917 is proposed to be amended as follows:

## PART 917—FRESH PEARS, PLUMS AND PEACHES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 917 continues to read as follows:

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

2. Section 917.461 is amended by revising the introductory text of paragraph (a), by revising paragraphs (a)(1), (a)(2), (a)(3), (a)(4), (a)(6) and (b)(3), and by adding new paragraphs (a)(7), (a)(8), and (b)(6) to read as follows:

**§ 917.461 Pear Regulation 12.**

(a) No handler shall ship:

(1) Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears which do not grade at least U.S. Combination with not less than 80 percent, by count, of the pears grading at least U.S. No. 1: *Provided,* That for the 1990 crop year, no handler shall ship organic pears of these varieties unless they grade at least U.S. Combination with not less than 50 percent, by count, grading at least U.S. No. 1 and the

remainder grading at least U.S. No. 2, except that russeting shall not be scored as a defect for such organically grown pears. Handlers who intend to ship organic pears in accordance with this paragraph shall provide, upon request of the committee, with the approval of the Secretary, information to indicate that the pears were grown in accordance with the provisions of paragraph (b)(5) of this section.

(2) Any box or container, including consumer packages in master containers and consumer packages not in master containers, of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears unless such pears are of a size not smaller than the size known commercially as size 165;

(3) Any box or container, other than consumer packages in master containers and consumer packages not in master containers, of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears unless such box or container is stamped or otherwise marked, in plain sight and in plain letters, on one outside end with the name of the variety;

(4) Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears, when packed in closed containers, other than consumer packages in master containers and consumer packages not in master containers, unless such box or container conforms to the requirement of standard pack, except that such pears may be fairly tightly packed;

* * * * *

(6) Any volume-filled box or container of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears (not packed in rows and not wrap packed), other than consumer packages in master containers and consumer packages not in master containers, unless (i) such boxes or containers are well filled with pears fairly uniform in size; (ii) such pears are packed fairly tight; (iii) there is an approved top pad in each box or container that will cover the fruit with no more than ¼ inch between the pad and any side or end of the box or container; and (iv) the top of the box or conainter shall be securely fastened to the bottom: Provided, That 10 percent of the boxes or containers in any lot may fail to meet the requirements of this paragraph.

(7) Each master container, when filled with pears packed in consumer packages, shall bear on one outside end in plain sight and plain letters of varietal name and size description of the contents; the number of consumer packages packed in the master container; the net weight of each consumer package; and the name and address, including zip code, of the handler.

(8) Each individual consumer package shall bear the name and address, including the zip code, of the handler and the net weight of the contents. When a consumer package is not shipped in a master container, it must also bear the varietal name, number and size description of pears contained in the package.

(b) * * *

(3) *U.S. No. 1, U.S. No. 2, U.S. Combination,* and *Standard Pack* mean the same as defined in the United States Standards for Summer and Fall Pears (7 CFR 51.1260 to 51.1280).

* * * * *

(6) *Consumer package* means a package holding 15 pounds or less net weight of pears.

Dated: March 30, 1990.

**Robert C. Keeney,**

*Deputy Director, Fruit and Vegetable Division.*

[FR Doc. 90-7725 Filed 4-4-90; 8:45 am]

BILLING CODE 3410-02-M

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## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

### 8 CFR Part 103

**[INS No. 1255-90]**

**RIN 1115-AB11**

### INS/EOIR Fee Review

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Proposed rule.

**SUMMARY:** This rule proposes to amend the fee schedule of the Immigration and Naturalization Service (INS) and the Executive Office for Immigration Review (EOIR) by charging a fee for a special service which is currently rendered free of charge. This service consists of adjudicating requests for parole into the United States. If granted, Form I-512, Authorization for Parole of an Alien into the United States, will be completed by the INS. This change is necessary to place the financial burden of providing this special service and benefit which does not accrue to the general public at large on the recipients of this special service and benefit. Charges have been proposed to reflect the current recovery cost of providing this special service and benefit taking into account public policy and other pertinent facts.

**DATES:** Comments must be received on or before May 7, 1990.

**ADDRESSES:** Please submit written comments, in triplicate, to Charles S. Thomason, Systems Accountant, Resource Management Branch, Immigration and Naturalization Service, 425 I Street NW., room 6309, Washington, DC 20536. For proper handling, please include INS number 1255-90 on the mailing envelope.

**FOR FURTHER INFORMATION CONTACT:** Charles S. Thomason, Systems Accountant, Resource Management Branch, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Telephone: (202) 633-4705.

**SUPPLEMENTARY INFORMATION:** The INS and EOIR undertook a study of their fee schedule as required under 31 U.S.C. 9701 and OMB Circular A-25. Under that law and the OMB Circular, it is required that a special service or benefit provided to or for any person by a Federal agency be self-sustaining to the fullest extent possible. Charges are to be fair and equitable, taking into consideration direct and indirect cost to the Government, value to the recipient, public policy or interest served, and other pertinent facts. All services and benefits provided to the public by the INS and EOIR were reviewed for applicability of user charges. Costs which should be recovered from recipients of special services and benefits provided were identified in order to be fair and equitable to the taxpayers and the recipients of these special services and benefits. A fee in the amount of $45 is proposed for requesting authorization for parole of an alien into the United States.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule would not be a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have federalism implications warranting the preparation of a Federal Assessment in accordance with E.O. 12612.

**List of Subjects in 8 CFR Part 103**

Administrative practice and procedures, Archives and records, Authority delegation, Fees, Forms.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is revised to read as follows:

## PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 of title 8 continues to read as follows:

**Authority:** 5 U.S.C. 552, 552a; 8 U.S.C. 1101, 1103, 1201, 1304; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

**§ 103.7 [Amended]**

2. In § 103.7, paragraph (b)(1) is amended by adding the following as the last entry:

Request. For requesting authorization for parole of an alien into the United States—$45.00.

Dated: March 19, 1990.

**Gene McNary,**

*Commissioner, Immigration and Naturalization Service.*

[FR Doc. 90-7785 Filed 4-4-90; 8:45 am]

BILLING CODE 4410-10-M

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

### 9 CFR Part 3

**[Docket No. 90-006]**

### Animal Welfare—Standards for Horses and Other Farm Animals

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** We are considering establishing standards designed specifically for the humane care of horses used for biomedical or other nonagricultural research, and for the humane care of other farm animals used for biomedical or other nonagricultural research, or for nonagricultural exhibition, and are soliciting comments regarding appropriate standards. Elsewhere in this issue of the **Federal Register**, we are publishing a determination to regulate these animals under the Animal Welfare Act.

**DATES:** Consideration will be given only to comments received on or before June 4, 1990.

**ADDRESSES:** To help ensure that your comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 90-006. Comments received may be inspected at USDA, Room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

**FOR FURTHER INFORMATION CONTACT:** Dr. R.L. Crawford, Director, Animal Care Staff, Regulatory Enforcement and Animal Care, APHIS, USDA, Room 269, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8790.

**SUPPLEMENTARY INFORMATION:**

#### Background

The Animal Welfare Act (the Act) (7 U.S.C. 2131 *et seq.*), enacted in 1966 and amended in 1970, 1976, and 1985, authorizes the Secretary of Agriculture to promulgate standards and other requirements governing the humane handling, housing, care, treatment, and transportation of certain animals by dealers, research facilities, exhibitors, carriers, and intermediate handlers. Regulations established under the Act are contained in 9 CFR parts 1, 2, and 3. From the time the Act was amended in 1970 (Pub. L. 91-579), the definition of the term "animal" has included "any live or dead dog, cat, monkey (nonhuman primate mammal), guinea pig, hamster, rabbit, or such other warm-blooded animal, as the Secretary may determine is being used, or is intended for use, for research, testing, experimentation, or exhibition purposes, or as a pet; * * *" (7 U.S.C. 2132(g)). The following animals are excluded from the term and therefore are not covered by the Act:

"* * * horses not used for research purposes and other farm animals, such as, but not limited to livestock or poultry, used or intended for use as food or fiber, or livestock or poultry used or intended for improving animal nutrition, breeding, management, or production efficiency, or for improving the quality of food or fiber * * *" (7 U.S.C. 2132(g)).

We are therefore authorized by the Act to regulate horses when used for biomedical or other nonagricultural research, and are authorized to regulate other farm animals when the animals are used for biomedical or other nonagricultural research, nonagricultural exhibition, or as pets. An example of agricultural exhibition would be a livestock show at a State or county fair.

To date, as a matter of policy, we have not generally enforced the Animal Welfare regulations with respect to horses and other farm animals, although the handling and care of these animals is subject to regulation under the Act. However, we have reevaluated our policy in light of the increasing use of horses and other farm animals in biomedical research and nonagricultural exhibition, and in light of comments and inquiries received from members of the public, including members of industries regulated under the Act, regarding the need to extend enforcement of the regulations to include these animals. Following our proposal to amend part 1 of the regulations, published in the **Federal Register** on March 31, 1987 (52 FR 10292-10298, Docket No. 84-010), we received more than 1,000 comments stating that the proposed definition of "animal" should encompass all warmblooded animals, including farm animals. Based on information supplied by the commenters, on information supplied by members of the public prior to publication of the proposed rule, and on our own experience enforcing the Animal Welfare regulations, we believe it is appropriate to extend our enforcement of the Animal Welfare Act to those horses and other farm animals covered by the Act. In a final rule published elsewhere in this issue of the **Federal Register**, entitled "Notice of Intent to Regulate Horses and Other Farm Animals Under the Animal Welfare Act; Correction of Definition" (Docket No. 89-223), we give notice of our intent to regulate such animals under the Act.

In this document, we are requesting comments on appropriate specific standards for the humane handling, care, treatment, and transportation of horses used for biomedical or other nonagricultural research, and for the humane handling, care, treatment, and transportation of other farm animals, such as cattle, sheep, pigs, and goats, when used for biomedical or other nonagricultural research, or for nonagricultural exhibition purposes. Until standards designed specifically for such animals are added to the regulations, we intend to regulate horses and other farm animals in accordance with the standards set forth in 9 CFR part 3, subpart F—"Specifications for the Humane Handling, Care, Treatment, and Transportation of Warmblooded Animals Other Than Dogs, Cats, Rabbits, Hamsters, Guinea Pigs, Nonhuman Primates, and Marine Mammals."

**Authority:** 7 U.S.C. 2131-2157; 7 CFR 2.17, 2.51, and 371.2(g).

Done in Washington, DC, this 30th day of March 1990.

**James W. Glosser,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 90-7866 Filed 4-4-90; 8:45 am]

BILLING CODE 3410-34-M

## DEPARTMENT OF ENERGY

### Office of Procurement and Financial Assistance

### 10 CFR Part 708

### Criteria and Procedures for DOE Contractor Employee Protection Program

**AGENCY:** Department of Energy.

**ACTION:** Notice of Public Hearings.

**SUMMARY:** The Department of Energy gives notice of public hearings on a Notice of Proposed Rulemaking, issued on March 13, 1990, at 55 FR 9326, that would establish the criteria and procedures for resolving complaints of reprisal resulting from certain protected disclosures of information.

**DATES:** Two public hearings will be held beginning at 9:30 a.m. and ended at 4:30 p.m., unless concluded earlier, at the following locations and on the dates indicated: Seattle Washington (April 26, 1990) and Washington, DC (May 4, 1990). Requests to speak at a hearing must be received by 4:30 p.m. on April 18, 1990.

**ADDRESSES:** Requests to speak at a public hearing are to be submitted to the Director, Office of Industrial Relations, Department of Energy, Washington, DC 20585. The public hearings will be at:

Jackson Federal Building, 915 Second Avenue, Room 514, Seattle Washington 98174

U.S. Department of Energy, Forrestal Building Auditorium, 1000 Independence Avenue SW., Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:** Juanita E. Smith or Armin Behr at (202) 586–9023 (FTS 896–9023).

**SUPPLEMENTARY INFORMATION:** Any person who has an interest in the proposed rules or who is a representative of a group or class of persons which has an interest in it may make a request for an opportunity to make an oral presentation. Such a request to speak at the hearing should be directed to the Director of the Office of Industrial Relations at the address given in the Addresses section of this notice and must be received by 4:30 p.m. local time, on the date specified in the Dates section.

DOE reserves the right to select the persons to be heard at the hearing, to schedule the respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation is limited to 20 minutes.

Each person to be heard is requested to bring ten copies of his/her statement. In the event that any person wishing to testify cannot meet this requirement, alternative arrangements can be made with the Office of Industrial Relations in advance by so indicating in the letter or phone request to make an oral presentation.

A transcript of the public hearings, as well as the entirer rulemaking record, will be available for inspection between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays, at the following address: DOE Freedom of Infomation Reading Room, United State Department of Energy, Room 1E–190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6020.

**Berton J. Roth,**

*Office of Procurement and Assistance Management.*

[FR Doc. 90–8058 Filed 4–3–90; 4:01 pm]

**BILLING CODE 6450–01–M**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 33 CFR Part 117

**[CGD8–90–01]**

### Drawbridge Operation Regulations; Apalachicola River, FL

**AGENCY:** U.S. Coast Guard, DOT.

**ACTION:** Proposed rule.

**SUMMARY:** At the request of the CSX Rail Transport Company, the Coast Guard is considering a change to the regulaiton governing the operation of the swingspan railroad bridge over the Apalachicola River, mile 105.9, at River Junction (near Chattahooche), Florida, to require that at least eight hours advance notice be given for an opening of the draw between the hours of 11 p.m. and 7 a.m. This action will relieve the bridge owner of the burden of having a person constantly available at the bridge during this advance notice period, and will still provide for the reasonable needs of navigation.

**DATES:** Comments must be received on or before May 21, 1990.

**ADDRESSES:** Comments should be mailed to Commander (ob), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana 70130–3396. The comments and other materials referenced in this notice will be available for inspection and copying in room 1115 at this address. Normal office hours are between 8 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

**FOR FURTHER INFORMATION CONTACT:** John Wachter, Bridge Administration Branch, at the address given above, telephone (504) 589–2965.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Eighth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. This proposed regulation may be changed in the light of comments received.

#### Drafting Information

The drafters of this notice are John Wachter, project officer, and Commander J. A. Unzicker, project attorney.

#### Discussion of Proposed Regulation

Vertical clearance of the bridge in the closed position is one foot above extreme high water and 32 feet above mean low water. Vertical clearance is unlimited in the open to navigation position. Navigation through the bridge consists of commercial vessels, fishing boats and recreational craft.

This proposal is being made because of infrequent requests to open the draw during the prescribed advance notice period. A review of the bridgetender's log of openings for the past three years shows that the draw has been opened for the passage of vessels an average of about one time every four days between 11 p.m. and 7 a.m.

Eight hours advance notice for opening of the draw would be made by placing a collect call anytime to the CSX Rail Transport Company at (904) 381–2790. To provide for leeway in the appointed vessel arrival time, the CSX Rail Transport Company would agree to have a tender at the bridge at least one-half hour before the appointed opening time, and the tender would remain at least one-half hour after the appointed time for a late arriving vessel.

#### Federalism Implications

This action has been analyzed in accordance with the principles and criteria contained in Executive Order

12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

**Economic Assessment and Certification**

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034: February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that the average number of vessels passing this bridge during the proposed advance notice period, as evidenced by the bridge openings from January 1987 through April 1989, is about one vessel every four days. These vessels can give advance notice for a bridge opening by placing a collect call to the bridge owner at any time. Mariners requiring the bridge openings are repeat users of the waterway and scheduling their arrival at the bridge at the appointed time during the proposed advance notice period should involve little or no additional expense to them. Since the eocnomic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

**List of Subjects in 33 CFR Part 117**

Bridges.

**Proposed Regulation**

In consideration of the foregoing, the Coast Guard proposes to amend part 117 of title 33, Code of Federal Regulations, as follows:

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05–1(g).

2. Section 117.259 is added to read as follows:

**§ 117.259 Appalachicola River**

The draw of the CSX Railroad bridge, mile 105.9, at River Junction (near Chattahoochee), shall open on signal; except that, from 11 p.m. to 7 a.m., the draw shall open on signal if at least eight hours notice is given.

Dated: March 8, 1990.

W.F. Merlin,

*Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.*

[FR Doc. 90–7803 Filed 4–4–90; 8:45 am]

BILLING CODE 4910–14–M

## ENVIRONMENTAL PROTECTION AGENCY

**40 CFR Part 52**

**[FRL–3752–5]**

### Approval and Promulgation of Implementation Plans; California—Sacramento Air Quality Maintenance Area; Ozone Plan

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

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Environmental Council of Sacramento (ECOS) and others brought suit in 1987 against the U.S. Environmental Protection Agency to compel the Agency to disapprove the Sacramento portion of the California State Implementation Plan (SIP) for Ozone and to promulgate in its place a federal implementation plan (FIP) for the Sacramento Air Quality Maintenance Area (AQMA). The Sacramento AQMA includes Sacramento County, Yolo County, and portions of Placer and Solano Counties.

EPA disapproved the Sacramento Ozone SIP on December 1, 1988 (53 FR 48535), and reached an agreement with ECOS on a schedule for promulgation of a FIP or, in the alternative, the approval of a SIP submitted by California. As part of the settlement, EPA agreed to publish in the **Federal Register** an Advance Notice of Proposed Rulemaking (ANPRM) containing two parts. The first part is a list of possible control measures that might be included in a FIP for the Sacramento area. The second part is a set of criteria by which EPA will determine whether the Sacramento area and the State are making reasonable efforts to submit an adequate air quality plan. Today's notice fulfills EPA's obligation under the settlement to publish an ANPRM.

As part of this notice, EPA is requesting comments on a list of possible FIP control measures. The publication of this list of measures does not commit EPA to the proposal or promulgation of any or all of these measures nor does it imply that any of these measures will reduce emissions in the Sacramento area or that any of these measures are "reasonably available" within the meaning of Clean Air Act (CAA) sections 172(b) (2) or (3). Extensive additional analysis of each control measure is necessary before a decision can be made on federal proposal or promulgation of any measure.

EPA will consider the set of criteria being published in today's notice in determining whether the Sacramento area and the State are making reasonable efforts to submit an adequate air quality plan. Failure of the area or the State to substantially meet these criteria may subject the area to the highway approval and funding restrictions in section 176(a) of the CAA.

**DATES:** Comments by the public are welcome on all parts of this notice and may be submitted to EPA, Region 9 at the address below on or before June 4, 1990.

**ADDRESSES:** A docket containing material relevant to this notice is located at the address below. Interested persons may inspect the docket on weekdays between 9 a.m. and 4 p.m. EPA may charge a reasonable fee for copying.

Comments on this proposal should be sent to: Regional Administrator, Attention: Air and Toxics Division, State Liaison Section, A–2–2, U.S. Environmental Protection Agency, Region 9, 1235 Mission Street, San Francisco, CA 94103.

**FOR FURTHER INFORMATION CONTACT:** Wallace D. Woo, State Liaison Section, A–2–2, Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 1235 Mission Street, San Francisco, CA 94103 (415) 556–5262.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

*A. Lawsuit Background*

The Sacramento Air Quality Maintenance Area (AQMA) was designated non-attainment for ozone on March 3, 1978 (43 FR 8962). The AQMA is a four-county area encompassing Sacramento County, Yolo County, and portions of Placer and Solano Counties. In 1987, the area had a population of 1.26 million which is projected to grow to over 1.8 million by 2010. The AQMA is covered by three separate air pollution control districts: the Sacramento Metropolitan Air Quality Management District (formerly the Sacramento County Air Pollution Control District), the Placer County Air Pollution Control District, and the Yolo-Solano Air Pollution Control District. The Sacramento Area Council of Governments (SACOG) was appointed by the Governor of California to be the lead air quality planning agency for the

Sacramento AQMA in the development of the 1979 and 1982 non-attainment plans (NAPs) required by the 1977 Clean Air Act (CAA) amendments.

The 1979 ozone plan submitted by the State for the area did not demonstrate attainment of the National Ambient Air Quality Standard (NAAQS) for ozone by the required deadline of December 31, 1982, and California requested an extension of that deadline, as provided by the CAA, until December 31, 1987.

The 1982 NAP for the Sacramento AQMA contained commitments from the Sacramento County and Placer County Air Pollution Control Districts to adopt and implement stationary source control measures as well as commitments from seventeen jurisdictions in the non-attainment area to implement transportation and some land-use control measures. However, despite the inclusion of all reasonably available measures, this plan could not demonstrate that the area would attain the ozone NAAQS by the CAA-required deadline of December 31, 1987, nor did the plan demonstrate reasonable further progress (RFP) in the interim before attainment. On February 3, 1983 (48 FR 5074), EPA proposed to disapprove the 1982 plan because of the plan's failure to demonstrate attainment and RFP and to impose the ban on the construction or modification of major stationary sources required by CAA section 110(a)(2)(I). On July 30, 1984 (49 FR 30300), EPA took final action to approve the control measures in the Sacramento NAP but held open the question of whether to approve the attainment and RFP demonstrations. On July 14, 1987 (52 FR 26431), EPA reproposed to disapprove the ozone SIP for Sacramento and to impose the construction ban, stating in the notice that it lacked authority to continue to defer action on the plan.

In March, 1987, the Environmental Council of Sacramento (ECOS), an association of environmental groups in the Sacramento area, together with the Sierra Club sued EPA in the U.S. District Court for the Eastern District of California alleging, among other things, that EPA failed to carry out its non-discretionary duties to disapprove the Sacramento SIP and thereafter to promulgate a federal implementation plan for the area. Pursuant to an initial agreement with the plaintiffs (collectively, "ECOS"), EPA took final action to disapprove the Sacramento Ozone SIP on December 1, 1988 (53 FR 48535), and to impose the construction ban required by section 110(a)(2)(I) of the CAA.

In further negotiation, EPA reached agreement with ECOS on a schedule for promulgation of a FIP or, in the alternative, the approval of a SIP submitted by the State. Under the settlement agreement, EPA committed to sign a Notice of Proposed Rulemaking by June 26, 1991, setting forth either a proposed approval of a SIP or EPA's proposed FIP to attain the primary ozone NAAQS in the Sacramento AQMA and to sign a Notice of Final Rulemaking by February 26, 1992 setting forth either the approval of a SIP or EPA's final FIP. EPA also agreed under the settlement to sign by December 26, 1989, and subsequently publish in the **Federal Register**, an Advance Notice of Proposed Rulemaking (ANPRM). The December 26, 1989 date was later extended, in agreement with ECOS, to March 1, 1990.

In accordance with the settlement, the ANPRM is to have two parts. The first part is a list of possible control measures that might be included in a FIP for the Sacramento AQMA. The second part is a set of criteria which EPA will consider in determining whether the Sacramento area is making reasonable efforts to submit an air quality plan that meets the intent of the federal Clean Air Act. The failure of local agencies or the State to make reasonable efforts would potentially subject the area to sanctions under section 176(a) of the CAA (highway approval and funding restrictions). Today's notice fulfills EPA's obligation to sign and publish an ANPRM.

*B. Current Planning Efforts in the Sacramento AQMA*

Currently a number of air quality planning activities are underway in the Sacramento area. These activities include SACOG's program to develop a comprehensive air quality plan for the region, the Sacramento Metropolitan Air Quality Management District's development of an air quality improvement strategy under Assembly Bill (AB) 4355, Connelly, and the development by each air pollution control district of new air quality plans under the California Clean Air Act of 1988, AB 2595, Sher.

In response to the growing concern about air quality in Sacramento, SACOG launched in 1986 a long-term program to develop a comprehensive air quality plan for the Sacramento AQMA. Phase I of the program is the preparation of an interim air quality plan that includes new emission inventories through 2010, evaluation of various emission control strategies, and the adoption and implementation of an initial set of stationary and transportation control measures by cities and counties in the AQMA. Phase II of the program includes the development of an urban airshed model for the AQMA and an enlarging and refining of the Phase I control strategy in order to demonstrate attainment of both the federal and state air quality standards for ozone.

Currently SACOG has released to its member jurisdictions the interim (Phase I) air quality plan. The interim plan's proposed control strategy includes a broad range of stationary source control measures and transportation control measures (TCMs). For implementation, the plan needs commitments for the stationary source control measures from the three air pollution control districts (APCDs) and commitments for the various TCMs from the cities and counties within the AQMA. SACOG in conjunction with the three APCDs will be working throughout the spring and summer of 1990 to obtain these needed commitments and expects to forward the final Phase I plan to the California Air Resources Board (ARB) by the end of this year.

Early in SACOG's air quality planning program, it was concluded that the urban airshed model (UAM) is the most appropriate air quality model for the Sacramento area. At that time, though, the Sacramento area lacked sufficient meteorological and ambient concentration data to support UAM. To obtain this data, an extensive field study was undertaken in the sumer of 1989. However, the ozone season last summer was atypical for Sacramento with both ozone concentrations and the number of days over the standard being unusually low.

Typically Sacramento experiences multi-day ozone episodes with multiple sites recording ozone concentrations above the NAAQS and with ozone values sometimes peaking at or above 0.17 ppm on the second or third day of the episode. In the summer of 1989, no episodes followed this typical pattern. Except for one unexplained reading of 0.17 ppm on one day at one monitoring station, the highest ozone value recorded during a multi-day episode was only 0.13 ppm, barely over the NAAQS of 0.12 ppm. While the 0.13 ppm episode could be used to develop an UAM simulation for Sacramento, the resulting model would not be beneficial in selecting control strategies that could reduce ozone concentrations in the Sacramento area from the design value of 0.17 ppm to the federal and state ozone standards.

After extensive discussions between SACOG, the ARB, the Sacramento area air pollution control districts, and EPA-Region 9, it was decided that additional air quality monitoring data should be

collected during the summer of 1990. While this additional year of data collection could delay for up to one year the completion of the regional air quality plan for the Sacramento AQMA, the agencies involved in the decision believe that additional data are necessary to develop a technically-defensible air quality model with which to evaluate the far-reaching control strategies likely to be needed to bring Sacramento into attainment of the ozone air quality standards.

In its 1988 session, the California State Legislature passed two air quality bills which affect the Sacramento area. The first of these bills is AB 4355, the Connelly bill, (Chapter 1541, California Statutes of 1988) which created the Sacramento Metropolitan Air Quality Management District (SMAQMD) from the former Sacramento County Air Pollution Control District, provides new funding for the district (in the form of an annual vehicle registration fee of up to $4.00), and requires the district to develop a comprehensive strategy for improving air quality in Sacramento County. The second bill is the California Clean Air Act (the Sher Act, Chapter 1556, California Statutes of 1988) which requires air pollution control districts (APCDs) in all State-designated non-attainment areas to develop new air quality plans sufficient to meet not only the federal NAAQSs but also the generally more stringent state air quality standards.

On December 19, 1989, the SMAQMD's Board adopted the air quality improvement strategy required under AB 4355. The strategy provides the goals and strategies which will direct the District's leadership role in the transportation, clean fuels, land use, area-wide, and stationary source fields. These strategies include among many other things the promotion and demonstration of clean vehicle fuels especially within public and private motor vehicle fleets, the innovative and aggressive use of transportation system management programs, a public education program, the regulation of indirect emission sources, the reduction in emissions of toxic air pollutants, and the adoption of a wide range of new stationary and area source rules. The strategy contains a draft workplan for 1990 and 1991 to develop and adopt the demonstration programs and rules necessary to implement the elements of the strategy.

The California Clean Air Act of 1988 requires APCDs to develop comprehensive air quality plans to attain federal and state ambient air quality standards by the earliest practicable date. The Act establishes different requirements for three classes of areas depending upon the severity of the nonattainment problem, but all areas are required to achieve at least a five percent reduction per year in pollutant precursors. All areas must also at a minimum apply reasonably available control technology on all existing sources and adopt reasonably available transportation control measures. The Act greatly strengthens the authority of local air pollution control districts to enact these TCMs and to regulate indirect sources. The Act also requires the ARB to adopt rules to control emissions from consumer solvents and to adopt or tighten controls on a number of mobile sources. Under the Act, Districts must update their plans every three years with the first plans due no later than July 1, 1991. Currently, the ARB is developing guidance documents for local districts on the requirements of the Act.

All three of these planning processes will result in control measures, rules, and regulations that the State may submit to EPA as additions and/or revisions to the Sacramento AQMA Ozone SIP. EPA currently intends to approve all state-submitted measures that meet EPA's SIP-approval requirements, including provisions for legal authority, binding commitments, specificity of emission limitations, funding, scheduling, approval of appropriate governmental agencies, and monitoring. These new federally-approvable measures may, when combined with existing SIP measures, be sufficient to demonstrate attainment of the ozone NAAQS as expeditiously as practicable. Should this occur, EPA would move to approve the SIP submittals in lieu of promulgating a FIP. Should the state-submitted measures in themselves not be sufficient to demonstrate attainment, EPA would still move to approve them and then would promulgate only those federal measures necessary, when combined with the State and local measures, to demonstrate attainment as expeditiously as practicable.

## II. Potential FIP Control Measures

### *A. Evaluation of Control Measures for the FIP*

This ANPRM is intended to provide the public with a list of possible control measures that may be promulgated in a federal implementation plan for the Sacramento AQMA. EPA approached the task of listing possible control measures by including all likely measures that it could identify which may reduce emissions in the Sacramento area. This list, which in the Appendix to this notice, was prepared based on EPA's knowledge of the types of emission sources in Sacramento as well as its knowledge of current or planned rules for controlling these sources. EPA welcomes comments on any additional control measures that it should consider for a FIP.

By listing a measure, EPA is not claiming that the measure would, if implemented, improve air quality in the AQMA nor is EPA claiming that any of these measures are reasonably available control measures within the meaning of section 172(b) (2) or (3) of the CAA. Under the settlement agreement with ESCOS, EPA has until June 26, 1991, to sign a notice of proposed rulemaking proposing a FIP (or a SIP) [1] and until February 26, 1992, to sign a notice of final rulemaking promulgating a FIP. During the period before proposal and promulgation, EPA will undertake a more intensive evaluation of the possible control measures before considering any measure for inclusion in a FIP. Therefore, not every measure identified in this ANPRM will necessarily be included in a final FIP for Sacramento.

For each control measure on the list, EPA will need to carefully identify the potential affected sources and to qualify the emissions from these sources, both for the baseyear and for specific future years. Each measure will then be evaluated for its effectiveness in reducing emissions from the identified sources. If possible, modeling will be used to determine the measure's impact on ambient ozone concentrations, although this last step will only be possible for control measures that have the potential for substantial emission reductions.

While it is EPA's preliminary judgment that it has the legal authority to promulgate every listed measure, EPA's legal authority to promulgate, implement, and enforce each measure must be more thoroughly evaluated. This evaluation starts with an initial determination on how the measure would be implemented and enforced. This process includes not only assessing whether the promulgation, implementation, or enforcement of a measure would violate existing federal statutes and regulations but also ensuring that the measure meets

[1] To facilitate discussion in this section, the assumption is made that FIP measures will be promulgated; however, under the settlement, EPA could approve a SIP that adequately provides for attainment and maintenance of the ozone NAAQS.

requirements in the Clean Air Act on the content of SIPs and, by extension, FIPs.

Both section 110(a)(2)(F)(i) and section 172(b)(7) of the CAA require that states have assurances in their SIPs that they have sufficient resources (personnel, funding, and authority) to carry out the plan. Arguably, when EPA prepares a FIP, it must also comply with these sections. Because it cannot require a state or local agency to implement a federally-promulgated measure, EPA is legally limited to promulgating only those measures that it can implement and enforce with its own resources.[2] This requirement places real constraints on which measures are available for promulgation, especially when EPA is faced with the possibility of implementing four other ozone FIPs in California.

For each measure that passes the screening for effectiveness and legality, information must be collected on the cost of the measure to the impacted sources. While cost effectiveness will not be a ground on which measure are rejected for the FIP, it will be a criterion used to prioritize control strategies. Additionally, the Regulatory Flexibility Act (5 U.S.C. 605(b)) requires EPA to assess the impact on small businesses of proposed rules and to minimize that impact to the extent possible.

Finally, each measure will be evaluated for its potential effects on the Sacramento area. This evaluation includes reviewing both the positive and negative impacts on the economy, transportation, society, and energy use of both the individual measures and the FIP control strategy as a whole. In addition, EPA must be concerned that its approach to solving Sacramento's ozone problem does not cause or exacerbate other environmental problems such as increasing emissions of air toxics.

Beyond the merits of invididual control measures, there are a number of factors which will influence the nature and extent of any control strategy EPA might propose for the Sacramento AQMA. These factors include the overall emission reductions needed for attainment, whether nitrogen oxides ($NO_x$) controls would effectively reduce ambient ozone concentrations, the extent of local and state adoption of new control measures, the date by which the FIP must demonstrate attainment of the ozone NAAQS, and the appropriate rate of annual reductions in emissions between FIP promulgation and attainment.

At this time, little of the information that would contribute to an understanding of these issues' impact on the potential FIP control strategy is available. The first two factors, attainment level and the effectiveness of $NO_x$ controls, depend upon the development of an adequate air quality model for the Sacramento area. The extent of state and local controls, the third factor, will be known only after the Phase I and II Air Quality Plans under development by SACOG are completed, the proposed rules in the SMAQMD's Connelly strategy are adopted, and plans due under the California Clean Air Act in July 1991, are completed.

The final two factors, the appropriate attainment date and annual rate of progress, are issues that EPA has struggled with since the passing of the last attainment date—December 31, 1989—specified in the CAA. A discussion in today's notice of these issues is premature for Sacramento and is not the purpose of this notice. For a fuller discussion on these issues as they pertain to FIPs generally, see the ANPRM for the South Coast Ozone and Carbon Monoxide FIP, 53 FR 49494 (December 7, 1987).

Comments are requested on the applicability and appropriateness of the listed controls measures to the Sacramento AQMA. EPA also requests comments on each of the items, discussed above, on which it must evaluate each control measure. In addition, EPA requests suggestions for additional control measures that it should review for possible inclusion in a FIP.

### *B. List of Possible FIP Control Measures*

The list of possible control measures which EPA might promulgate in a FIP for the Sacramento AQMP can be found in the appendix to this notice. Measures are listed in the appendix by emission category (e.g., on-road motor vehicles, organic solvents) in descending importance of the emission inventory category in the Sacramento AQMA in 1990. Additionally, possible FIP measures within each category are divided into two groups: regulatory and prohibitory. Regulatory measures are similar to many existing air pollution regulations in that they require additional add-on controls, changes in work practices, or reformulation of products; restrict or prohibit substances for which there are available substitutes; or set emission standards or limits. Prohibitory measures would restrict or prohibit an activity or the sale and use of substances for which there are no substitutes. Measures within each category are not listed in any particular order.

The California Air Resources Board and the local air pollution control districts in California have led the country in the adoption and stringency of air quality rules and regulations. As a result, very few large stationary emission sources remain uncontrolled. Therefore, the emphasis in California has shifted away from the control of major point sources to the control of ever smaller sources, to cleaner vehicles and cleaner vehicle fuels, to reductions in vehicle trips and miles traveled, and to the reformulation of products which contain volatile organic compounds (VOCs) such as paints and deodorants. The list of potential FIP control measures in the Appendix shares this emphasis. These measures are, by their nature, more costly and more intrusive to the general public than measures adopted in the early 1980s.

EPA developed the list of potential control measures from the review of numerous documents including the "Air Quality Improvement Strategy" (Sacramento Metropolitan Air Quality Management District, December 1989), "Interim Regional Air Quality Plan," Committee Review Draft (Sacramento Area Council of Governments, September 1989), "Air Quality Management Plan, South Coast Air Basin" (South Coast Air Quality Management District and Southern California Association of Governments, March 1989), "Ventura County Air Quality Management Plan" (Ventura County Air Pollution Control District, September 1988), "1989 Air Quality Attainment Plan," Administrative Draft (Santa Barbara County Air Pollution Control District, August 1989), ANPRM for the South Coast Ozone and Carbon Monoxide FIP (53 FR 49494, December 7, 1988), California Clean Air Act of 1988, AB 2595, Sher (Chapter 1568, California Statutes of 1988), and draft reports from contractors on potential control measures for the Ventura County FIP (various dates). Copies of these documents are available in the docket for this notice.

## III. Criteria for Evaluating Reasonable Efforts

### *A. Background on Section 176(a) Sanctions*

The federal Clean Air Act Amendments of 1977 required states to revise their state implementation plans (SIPs) to meet the requirements of the new part D (sections 171 through 178) in all areas designated as not attaining the

[2] For a fuller discussion on this issue, see the ANPRM for the South Coast Ozone and Carbon Monoxide FIP in 53 FR 49494, 49509 (December 7, 1988).

NAAQSs. Section 176(a) of the CAA requires the Administrator of EPA and the Secretary of Transportation to impose certain highway approval and funding restrictions under Title 23 of the United States Code in any area (1) in which a primary NAAQS has not been attained, (2) where transportation control measures (TCMs) are necessary for the attainment of the standard, and (3) where the state has not submitted or has not made reasonable efforts to submit an implementation plan that considers each of the elements in section 172 of the CAA. Section 172(a) establishes attainment deadlines for SIPs, and section 172(b) lists the required contents of SIPs.

The Sacramento Air Quality Maintenance Area was designated non-attainment for ozone in March 1978 (43 FR 8962). Throughout the last decade, the area has not experienced any appreciable downward trend in either peak ozone levels or in the number of days exceeding the federal standard. Today, the people of the Sacramento Valley continue to suffer an average of ten days on which the federal ozone standard is exceeded.

While emission trends show that organic solvents will be the largest source of volatile organic compound (VOC) emissions in the next decade, on-road motor vehicles will still be an important contributor to the ozone problem. The Sacramento area expects to see a 50 percent increase in daily vehicle trips and a 75 percent increase in the daily vehicle miles traveled between 1987 and 2010. Therefore, TCMs will be an important part of any air quality plan to attain the ozone standards in Sacramento.

On December 1, 1988, EPA disapproved the attainment and reasonable further progress demonstrations in the 1982 ozone SIP for the Sacramento Area and imposed the construction moratorium required by section 110(a)(2)(I) of the CAA (53 FR 48535). As discussed previously in this notice, there are a number of air quality planning efforts underway in the Sacramento area; however, no new air quality plan has been submitted to EPA by the State of California since the submittal of the 1982 non-attainment plan.

Because Sacramento has not attained the ozone NAAQS, needs TCMs to attain that standard, and has not yet submitted an adequate state implementation plan, the area is potentially subject to section 176(a) sanctions if it fails to make reasonable efforts towards submitting an adequate implementation plan. For a general discussion of the application of sanctions in the post-1987 era to areas that have never received CAA Part D approval (i.e., EPA has never found that the SIP fully meets the criteria in section 172), see EPA's proposed Post-1987 Ozone/Carbon Monoxide Policy, 52 FR 45044, 45051 (November 24, 1987).

EPA is publishing today a list of criteria, based on the section 172(b) requirements for non-attainment plans, which it will consider in determining whether the Sacramento area and the State are making reasonable efforts to submit an adequate plan. If the State, SACOG, air pollution control district (or air quality management district), city, or county fails to substantially meet a criterion, EPA will evaluate the reasons for the failure and, if appropriate, make a finding that the area is not making reasonable efforts to submit an adequate plan. Should EPA make such a negative finding, it shall initiate a rulemaking, in accordance with the procedures outlined in 45 FR 24692 (April 10, 1980), to impose the highway approval and funding restrictions under section 176(a).

If EPA makes a finding that the area is not making reasonable efforts, EPA will identify the one or more jurisdictions and/or agencies in the non-attainment area that EPA determines have failed to demonstrate reasonable efforts and impose sanctions on only those jurisdictions. Should the State be the agency which fails to demonstrate reasonable efforts, the entire Sacramento non-attainment area would be subject to sanctions.

*B. Procedure for Imposing Section 176(a) Sanctions*

In an April 10, 1980, **Federal Register** notice (45 FR 24692), EPA and the U.S. Department of Transportation (DOT) jointly issued final policy and procedures that would be followed when imposing highway approval and funding restrictions under section 176(a). This procedure involves several steps that allow the State/local agencies to take corrective actions before EPA publishes a proposed finding of failure to make reasonable efforts and proposes to impose highway approval and funding sanctions.

The procedure outlined in the 1980 **Federal Register** notice is (45 FR 24692, 24695):

(1) The EPA Regional Administrator identifies the area or areas that he has initially determined have failed to make reasonable efforts toward submittal of a SIP revision that considers each of the CAA section 172 elements. The identification includes a description of the boundaries of the areas where highway approval and funding sanctions are to be imposed.

(2) The EPA Regional Administrator then provides this identification to the Federal Highway Administration (FHWA) regional office for review and comment. This notification to FHWA initiates a thirty-day consultation period. At the same time as the FHWA notification, the EPA Regional Administrator also notifies the appropriate state and local agencies and the public of the initial determination. During the following month, appropriate state and local agencies will have the opportunity to meet with the EPA Regional Administrator and FHWA to discuss the reasons for the failure to make reasonable efforts and to attempt to reach a satisfactory agreement on corrective actions. During this same period, interested members of the public may also meet with the Regional Administrator or his designee to discuss the initial determination.

(3) If agreement on corrective actions cannot be made within one month, the EPA Regional Administrator will send to EPA headquarters for a two week review period a Federal Register package containing the proposed determination with supporting rationale and documentation. During this headquarter's review period, negotiations on corrective actions may continue at either the regional or headquarters level among EPA, FHWA, and other parties.

(4) Failing an agreement on corrective actions, EPA will publish the proposed 176(a) finding in the **Federal Register** allowing a thirty-day period for public comment.

(5) After considering the public comments received, EPA will notify DOT of its final section 176(a) determination by publishing in the **Federal Register** the final finding on reasonable efforts. Once EPA has published the final section 176(a) finding, FHWA may not approve any projects or award any grants under Title 23 in the sanctioned area other than for safety, mass transit and transportation improvement projects.

The 1980 notice also describes FHWA and EPA's responsibilities during the period that highway sanctions are in place as well as the procedures for removal of the sanctions. A copy of the April 10, 1980 **Federal Register** notice can be found in the docket for today's notice.

*C. Criteria for Determining Resonable Efforts*

1. Discussion

EPA proposes to use the criteria listed below to determine whether the Sacramento area jurisdictions and the State of California are making reasonable efforts to submit an adequate state implementation plan. An adequate plan is one that contains the elements listed in criterion c. It should be noted that these criteria are not triggers for automatically imposing the section 176(a) sanctions but rather triggers for EPA to evaluate whether the Sacramento area is making reasonable efforts towards attaining the ozone NAAQS.

The criteria fall into one of two categories. The first category serves to ensure the timely development and submittal to EPA of an adequate implementation plan (criteria a through d). The second category of criteria ensures that in the interim, the Sacramento area continues to make progress in reducing emissions (criteria e through h).

The criteria listed below are not of equal importance. Failure to comply with any one of these criteria by an agency or jurisidiction will not trigger an automatic finding of failure to make reasonable efforts. Prior to making any finding of failure to make reasonable effort, EPA must first determine the cause of a failure to meet a criterion, evaluate that failure in light of other efforts by the area to improve air quality, and exercise its judgment as to whether such a failure jeopardizes the Sacramento area's ability to make progress towards attainment or to submit an adequate air quality plan in a timely manner.

The criteria listed below are the criteria on which EPA currently proposes to evaluate the State and the Sacramento area's reasonable efforts to submit an adequate air quality plan. These criteria are based on EPA's understanding of the requirements in the existing federal Clean Air Act. However, a number of comprehensive amendments to the Act have been proposed in Congress. Should any of these amendments become law, EPA will need to reevaluate today's criteria and revise them in keeping with the new amendments.

The development of an adequate air quality plan in Sacramento will take a number of years. Over this period, EPA will periodically evaluate whether the Sacramento area and the State have met the dates and content requirements set forth in the criteria; therefore, an early finding of reasonable efforts may be reversed in the future if the area does not continue to make progress in reducing emissions and in developing an implementation plan. Similarly, should sanctions be imposed early on, EPA could lift those sanctions later if the jurisdictions and/or agencies take corrective action and are found to be once again making reasonable efforts to submit an adequate plan.

2. The List of Criteria

(a) Submittal by July 1, 1990, by the State of a 1987 comprehensive baseyear emissions inventory for the Sacramento Air Quality Maintenance Area which meets EPA's requirements for emission inventories for ozone SIPs as described in "Emission Inventory Requirements for Post-87 Ozone SIPs" (EPA 450/4-88-019, December 1988).

(b) Submittal by September 30, 1990, by the State of a detailed schedule with commitments by the appropriate agencies for the development, adoption, and submittal by October 1, 1993, of an implementation plan that meets criterion c.

(c) Submittal by October 1, 1993, by the State after appropriate public hearing and comment, of an implementation plan for the Sacramento AQMA that contains:

(1) A determination of the emission reductions needed to attain the ozone NAAQS based on photochemical modeling that is appropriate and available for the area;

(2) Rules and regulations adopted by the appropriate agencies with schedules for their implementation (including stationary, area, mobile, and transportation measures);

(3) a demonstration that the adopted rules and regulations are sufficient to attain the ozone NAAQS as expeditiously as practicable and maintain the standard thereafter; and

(4) a demonstration that the adopted rules and regulations will achieve average annual emission reductions in volatile organic compounds (and/or separately nitrogen oxides if photochemical modeling shows that such controls would be beneficial) of at least 3 percent of the adjusted 1987 baseyear inventory from the year of plan submittal until the projected date of attainment. The average annual 3 percent reduction is to be determined using the techniques outlined in EPA's proposed Post-1987 Ozone/Carbon Monoxide Policy at 52 FR 45044, 45066 (November 24, 1987).

(d) Good faith adherence by the appropriate agencies to the iterim dates in developing the air quality plan as set forth in the schedule required in criterion b.

(e) Submittal by the State of an annual demonstration, starting in 1990 and continuing to the year before plan submittal, that the State, air pollution control districts, cities, and/or counties have adopted and implemented and/or will adopt and implement measures sufficient to reduce emissions of volatile organic compounds in the following year by 3 percent or the maximum feasible amount of the 1987 baseyear emissions inventory.

(f) Adoption of enhancements to the California inspection and maintenance (I/M) program so that the program meets the enhanced I/M performance standards in EPA's proposed Post-1987 Ozone/Carbon Monoxide Policy, 52 FR 45044, 45109 et seq. (November 24, 1987) within the boundaries of the Sacramento AQMA urbanized areas as they are determined by the 1990 federal census. Adoption of the program within six months of identification of new urbanized area boundaries with implementation of the program within eighteen months.

(g) Adoption by September 30, 1990, by the Sacramento Metropolitan Air Quality Management District (SMAQMD) and submittal by December 31, 1990, by the State of corrections of reasonably available control technology (RACT) deficiencies or post-1987 deficiencies in the following rules.

1. Rule 443—Refinery and Chemical Plant Fugitives,
2. Rule 445—Perchloroethylene Dry Cleaning,
3. Rule 446—Storage of Petroleum Products,
4. Rule 447—Gasoline Bulk Terminals,
5. Rule 448—Gasoline Bulk Plants/ Gasoline Delivery—Stage I Vapor Recovery,
6. Rule 450—Graphic Arts,
7. Rule 451—Miscellaneous Metal Parts Coating (including, Aerospace coatings),
8. Rule 452—Can Coating, and
9. Rule 454—Degreasing.

Adoption by September 30, 1990, by the SMAQMD and submittal by December 31, 1990, by the State of the following new rules to reflect RACT committed to by SMAQMD in letters of September 23, 1988 and September 27, 1989.

1. Manufacture of Wood Furniture;
2. Fiberglass Reinforced Plastic Fabrication;
3. Auto and Truck Refinishing; and
4. Plastic, Rubber, and Glass Coatings.

Adoption by September 30, 1990, by the Placer County Air Pollution Control District and submittal by December 31, 1990, by the State of corrections of

RACT deficiencies or post-1987 deficiencies in the following rules.

1. Rule 212—Storage of Petroleum Products (Fixed Roof Tanks);
2. Rule 213—Gasoline Bulk Plants/ Gasoline Delivery—Stage I Vapor Recovery;
3. Rule 215—Gasoline Bulk Terminals;
4. Rule 216—Degreasing;
5. Rule 217—Cutback Asphalt; and
6. Rule 223—Can Coating.

Adoption by September 30, 1990, by the Yolo-Solano Air Pollution Control District and submittal by December 31, 1990, by the State of corrections of RACT deficiencies or post-1987 deficiencies in the following rules.

1. Rule 2.21—Gasoline Bulk Plants, Delivery, and Stage II Vapor Recovery; and
2. Rule 2.24—Degreasing.

(h) Adoption by July 1, 1991, by the Sacramento Metropolitan Air Quality Management District and submittal by December 31, 1991, by the State of the following revisions to its New Source Review (NSR) rule (Rule 202).[3]

1. Deletion of section 103 (Exemption—New and Innovative Technology);
2. Either deletion of sections 104 and 105 (Exemption—Cogeneration/ Resource Recovery) or modification of the sections so that the exemption does not apply to non-attainment pollutants;
3. Modification of section 106 (Exemption—Intermittent Facilities) to require federally-enforceable permit conditions limiting operation of the facility;
4. Modification of section 219 (Net Emissions Increase) to include emissions from intermittent facilities;
5. Modification of section 302 (Offset Requirements) to replace the word "anticipated" with "permitted;"
6. Deletion of § 302.2 (Clean Pocket Exemption for Carbon Monoxide);
7. Modification of sections 410 and 411 to meet requirements in the operating permit program in 54 FR 27274 (June 28, 1989); and
8. Modification of § 413.5 to ensure that only actual emission reductions may be used to compute a source's net emissions increase.

Adoption by July 1, 1991, by the Placer County Air Pollution Control District and submittal by December 31, 1991, by the State of revisions to its New Source Review rule (Rule 508) sufficient to make it comply with all federal requirements for NSR rules in 40 CFR 51.165 or, alternatively, of a rule similar to the corrected SMAQMD Rule 202.

Adoption by July 1, 1991, by the Yolo-Solano Air Pollution Control District and submittal by December 31, 1991, by the State of revisions to its New Source Review rule (Rule 3.4, Standards for Authority to Construct and Permit to Operate) sufficient to make it comply with all federal requirements for NSR rules in 40 CFR 51.165 or, alternatively, of a rule similar to the corrected SMAQMD Rule 202.

Dated: March 1, 1990.

**David P. Howekamp,**

*Acting Regional Administrator.*

## Appendix—List of Potential FIP Control Measures

This ANPRM is intended to provide the public with a list of possible control measures that may be promulgated in a federal implementation plan for the Sacramento AQMA. The list includes every possible control measure that EPA could identify which may reduce emissions in the Sacramento area. The publication of this list, however, does not commit EPA to the proposal or promulgation of any or all of these measures.

By listing a measure, EPA is not claiming that the measure would, if promulgated, improve air quality in the Sacramento AQMA nor is EPA claiming that any of these measures are reasonably available control measures within the meaning of section 172(b)(2) or (3) of the CAA. EPA must carefully evaluate each possible potential control measure before considering any measure for inclusion in a FIP.

*On-Road Motor Vehicles*

On-road motor vehicles include passenger cars; light, medium, and heavy-duty trucks; buses; and motorcycles. In the Sacramento AQMA on-road motor vehicles are estimated to contribute 55.8 tons per day [1] (t/d) of reactive organic gases (ROG) [2] and 80.4 t/d of nitrogen oxides (NOx) in 1990 or 39.7 percent of the total ROG inventory and 67.8 percent of the total NOx inventory. While on-road motor vehicles are the largest source of VOC emissions in 1990, their contribution to the overall VOC inventory declines significantly in the future because of continuing reductions from already-adopted vehicle emission standards and from California's Smog Check program. However, on-road motor vehicles are now and will continue to be the largest source of NOx emissions.

There are two ways of reducing emissions from on-road motor vehicles. The first way, referred to as "mobile source control measures," is to reduce the rate at which motor vehicles emit pollutants through vehicle emission standards, inspection and maintenance programs (Smog Check), and the use of clean fuels. The second way, referred to as "transportation control measures," is to reduce the number of trips and/or miles driven by motor vehicles, change the time of day when trips are taken, or increase vehicle speeds by reducing congestion or improving traffic flow.

*Regulatory Measures:* Potential FIP regulatory measures to control VOC and NOx from on-road motor vehicles include the following.

Mobile Source Control Measures

1. Lower and/or in-use emission standards for light duty passenger vehicles, all weight ranges of trucks, and buses; emission standards for motorcycles.
2. Greater control of evaporative emissions from gasoline-powered vehicles.
3. Lower Reid Vapor Pressure (RVP) limits on gasoline sold during the ozone season; diesel fuel quality standards to reduce NOx emissions; gasoline fuel quality standards to prolong the life of on-board vehicle emission control systems.
4. Minimum sales level of low-emitting (e.g., methanol) motor vehicles or extremely low-emitting (e.g., electric) motor vehicles; required purchase by vehicle fleet operators of clean-fueled vehicles; the manufacture, distribution, and sale of clean motor vehicle fuels.
5. Enhancements to the current inspection and maintenance program (e.g., requiring annual inspections, reducing or eliminating waivers, expanding the geographical boundaries of the program); the identification and repair of "smoking" vehicles.
6. Requirements for the sale and use of oxygenated fuels (e.g., gasohol) during the ozone season.

Transportation Control Measures

1. Regulations for employer-based trip reduction programs which may include requirements for alternative work-hours, transit-use incentives, telecommuting and teleconferencing, car/vanpool matching and/or subsidies, preferential parking for car/vanpools, and on-site services; extension of current local trip reduction regulations to multi-tenant employer complexes.
2. Requirements that new facilities with over a threshold number of parking spaces receive a permit or approval based on air quality considerations prior to construction (management of parking supply).[3]

[3] SMAQMD's NSR rule incorporates prevention of significant deterioration (PSD) regulations. SMAQMD may wish to include the latest changes in federal PSD requirements as it amends its NSR rule under this criterion. Needed changes to the PSD sections include incorporating PM-10 and visibility protection requirements and nitrogen dioxide increments. Changes to the PSD sections are *not* a requirement for demonstrating reasonable efforts under this criterion.

[1] All inventory numbers are taken from the *Interim Regional Air Quality Plan*, Committee Review Draft (SACOG, September 1989) p. 76, and represent projections off a 1985 baseyear inventory. The inventories in the *Interim Plan* are draft and are subject to change.

[2] In this notice, the terms "reactive organic gases (ROG)" and "volatile organic compounds (VOC)" are used interchangeably.

[3] Parking pricing has been shown to be an effective method or reducing the number of vehicle trips; however, EPA is prohibited from imposing parking surcharges in FIPs by section 110(c)(2)(B) of the CAA. This prohibition does not extend to state or local agencies adopting, and EPA approving, such programs as part of SIPs.

3. Regulations to reduce off-peak trips such as requiring merchants to offer customers alternative mode facilities and incentives and programs to increase the use of at-home shopping and banking services.

4. Conformity procedures under CAA section 176(c) that require detailed analysis of the air quality impacts of federally funded, approved, permitted, and/or licensed activities and require mitigation of or prohibit federal activities that have adverse air quality impacts, especially those activities that increase job/housing imbalances.

5. Use of the transportation funding priority requirement in CAA section 176(d) to advance air quality-beneficial transportation projects such as transit improvements, traffic flow improvements, nonrecurrent (accident-response) congestion relief programs, high-occupancy vehicle lanes, park and ride lots, and reduction of at-grade rail crossings.

6. Review and mitigation program for federally-assisted or owned indirect sources.[4]

7. Requirements for special event centers (e.g., stadiums, arenas, large concert halls) to develop programs that reduce trips to events at their centers.

8. Restrictions on truck traffic during peak traffic periods; requirements for off-peak delivery and shipping.

*Prohibitory Measures:* Potential FIP prohibitory measures to control VOC and NOx from on-road motor vehicles include the following.

1. Limits on vehicle registration which may include prohibiting the registration of older, higher-polluting vehicles.

2. Mandatory no-drive days.

3. Restrictions on the sale of motor vehicle fuels.

*Organic Solvents*

Organic solvents are hydrocarbon-based liquids that are used in the manufacture of or are contained in almost every product made. They are found in paints and inks; pesticides; and consumer products such as deodorants, auto care products, and household care products. They are also used in a wide variety of industries to clean (degrease), prime, and coat surfaces. In the Sacramento AQMA, emissions from solvent evaporation are estimated to be 51.0 t/d of ROG in 1990 or 36.3 percent of the total ROG inventory; solvent usage does not emit NOx. In the Sacramento AQMA, as throughout California, organic solvents are expected in the future to become the largest single emission source category of VOC.

*Regulatory Measures:* Potential techniques for the control of VOC from organic solvents include the following.

1. Reformulation to lower VOC content of solvents, coatings, primers, and clean-up solvents.

2. Substitution of less- or non-photochemically reactive compounds in solvents, coatings, primers, and/or clean-up solvents.

3. Specification of a maximum daily VOC emission rate from a source.

4. Specification of minimum transfer efficiency in coating operations.

5. Specification of the equipment used to apply surface coatings.

6. Controls on previously exempt coatings, solvents, and sources.

7. Add-on controls (afterburners or carbon adsorption).

8. Workpractice and recordkeeping rules.

9. Solvent disposal rules.

Source categories in the Sacramento AQMA that could potentially be subject to the new or additional FIP regulatory controls are listed below. The specific techniques to be applied to a source category depend on the type and use of solvent to be controlled and, therefore, will vary among categories.

1. Can coating.
2. Road paving operations.
3. Degreasing operations.
4. Graphic arts (printing).
5. Aerospace manufacturing.
6. Fiberglass-reinforced plastics manufacturing.
7. Auto and truck refinishing.
8. Plastic, rubber, and glass coating operations.
9. Paper, film, and fabrics coating operations.
10. Semiconductor manufacturing.
11. Pesticide application.
12. Dry cleaning.
13. Pharmaceutical manufacturing.
14. Rigid and flexible computer disk manufacturing.
15. Metal parts cleaning and coating operations.

Products used in the Sacramento AQMA that could potentially be subject to reformulation, maximum VOC content limit, and/or substitution under FIP regulations inlcude the following.

1. Asphalt paving materials.
2. Degreasing solvents.
3. Inks.
4. Architectural coatings.
5. Aerospace coatings.
6. Primers and clean-up solvents used in all coating operations.
7. Fiberglass resins.
8. Automobile and truck paints.
9. Adhesives.
10. Dry cleaning solvents.
11. Paper, film, and fabric coatings.
12. Consumer products such as personal care products (e.g., colognes, deodorants, and hair care products), household products (e.g., room deodorants, furniture polishes, and laundry products), lawn and garden pesticides, and automotive and industrial products (e.g., refrigerants, lubricants, and engine degreasers).
13. Agricultural and commercial pesticides, herbicides, and fungicides.
14. Marine coatings.
15. Building construction materials.
16. Barbecue lighter fluid.

*Prohibitory Measures:* Potential FIP prohibitory measures to control VOC from organic solvents include the following.

1. Restrictions or prohibitions or on the manufacture, sale, and/or use of any solvent, pesticide, consumer solvent, and/or coating with a VOC content or a vapor pressure greater than a given limit.

2. Restrictions on the total sales/use of solvents, pesticides, consumer products, or coatings to a given level during a given time period.

*Off-Road Mobile Sources*

Off-road mobile sources include off-road motorcycles, recreational and commercial boats, trains, airplanes, farm equipment, construction equipment, home and commercial lawn care equipment, and other small utility equipment. In the Sacramento AQMA, these types of sources are estimated to emit 18.9 t/d of ROG and 24.5 t/d of NOx or 13.4 percent of the total 1990 ROG inventory and 20.6 percent of the total NOx inventory.

*Regulatory Measures:* Potential FIP regulatory measures to control VOC and NOx from off-road mobile sources include the following.

1. Electrification of utility equipment, locomotives, ships at berth, pleasure boat motors, and ground equipment at airports.

2. Use of clean fuels in utility equipment, locomotives, construction equipment, farm equipment, ground equipment at airports, and pleasure boat motors.

3. Emission standards for utility equipment, locomotives, new and reconditioned construction equipment, farm equipment, off-road motorcycles, and pleasure boat motors.

4. Airport operation programs that reduce aircraft taxing and idling, require centralized power supply for aircraft at gates, and/or prohibit landing/take-off of non-Stage III aircraft.

5. Use of vapor recovery equipment during marine vessel loading, ballasting, and housekeeping.

*Prohibitory Measures:* Potential FIP prohibitory measures to control VOC and NOx from off-road mobile sources include the following.

1. Restrictions on the use of utility equipment, locomotives, motorized pleasure boats, and construction and farm equipment during the ozone season.

2. Restrictions on take-offs and/or landings of commercial and general aviation planes during the ozone season.

3. Restrictions on the docking, loading, and operation of marine vessels during the ozone season.

*Petroleum Extraction and Marketing*

This category includes emissions from oil and gas extraction in Yolo and Solano Counties and mobile source fuels distribution. Also included here and not in the fuel combustion category are emissions from fuel combustion during petroleum extraction. Emissions from petroleum extraction and marketing in the Sacramento AQMA are estimated to be 8.7 t/d of ROG and 2.1 t/d of NOx ion 1990 or 6.2 percent of the total ROG inventory and 1.8 percent of the total NOx inventory.

*Regulatory Measures:* Potential FIP regulatory measures to control VOC and NOx from petroleum extraction and marketing include the following.

1. Controls on oil production wells and other oil field equipment such as internal combustion engines, tanks, sumps, and pits; controls on leaks from valves, flanges, pumps, and compressors.

[4] EPA is prohibited from promulgating in FIPs an indirect source review program for non-federal facilities by section 110(a)(5)(A)(ii) of the CAA. A state or local agency may adopt, and EPA may approve, such a program as part of a SIP.

2. More stringent controls on tanks used for the storage of petroleum products.

3. Elimination of exemptions based on throughput and tank size in existing local rules for vapor recovery equipment at bulk gasoline distributors.

4. "Fail-safe" Stage I (underground storage tanks) vapor recovery at service stations; certification of installation and maintenance contractors of Stage II vapor recovery equipment (gasoline pump nozzles).

5. Vapor recovery controls during marine bunkering and lightering.

6. Vapor recovery equipment for pleasure boat fueling.

7. Vapor recovery equipment at airport transfer points of aviation fuel.

*Prohibitory Measures:* Potential FIP prohibitory measures to control VOC and $NO_x$ from petroleum extraction and marketing include the following.

1. Restrictions or prohibitions on the storage of petroleum products during the ozone season.

2. Restrictions or prohibitions on the extraction of petroleum during the ozone season.

3. Restrictions or prohibitions on the transferring, transportation, and/or dispensing of any petroleum product including any motor vehicle fuels or aviation fuel during the ozone season.

*Stationary Point and Area Sources*

This category includes emissions from processes at point sources and area sources which are not included in the emission categories discussed previously. Sources in this category include chemical manufacturing, food and agricultural processing, waste handling and disposal, and wood and paper manufacturing. Emissions from these sources in the Sacramento AQMA are estimated to be 5.3 t/d of ROG and 0.3 t/d of $NO_x$ in 1990 or 5.3 percent of the total ROG inventory and 0.3 percent of the total $NO_x$ inventory.

*Regulatory Measures:* Potential FIP regulatory measures to control VOC and $NO_x$ from stationary point and area sources include the following.

1. Control of VOC emissions releases to the atmosphere from airstripping, wastewater treatment plants, and soil decontamination.

2. Collection and recovery or destruction of landfill gases.

3. Add-on chemicals (carbon adsorption) to reduce emissions from fermentation at wineries and breweries.

4. Add-on controls on commercial charbroiling operations.

5. Add-on controls (afterburners) to reduce emissions from bread ovens at large commercial bakeries.

6. Controls on paper manufacturing.

7. More stringent control of fugitive emissions chemical plants.

The following regulatory measures potentially apply to all stationary point sources and most discrete area sources in this category as well as in the organic solvent; petroleum extraction and marketing; and fuel combustion categories.

1. More stringent levels of best available control technology (BACT) and lower emission thresholds for application of BACT.

2. Application of best available retrofit control technology (BARCT) on all existing sources.

3. Lowering or elimination of the emission thresholds (VOC and $NO_x$) at which new sources or modifications to existing sources become subject to new source review and offset requirements; increased offset ratios for new and modified sources.

4. Elimination of the use of existing banked credits and prohibition on future banking of credits for source shutdowns, controls, or production curtailment.

*Prohibitory Measures:* Potential FIP prohibitory measures to control VOC and $NO_x$ from stationary point and area sources include the following.

1. Restriction on or prohibition of controlled burning (e.g., agricultural) during the ozone season.

2. Restriction on or prohibition of the operation of charbroilers and bakeries during the ozone season.

The following FIP prohibitory measures potentially apply to all stationary point sources and most discrete area sources in this category as well as in the organic solvent; petroleum extraction and marketing; and fuel combustion categories.

1. Allowing no net growth in emissions by restricting or prohibiting the construction and/or modification of any source within the non-attainment area for which emissions are not fully off-set.

2. Shut-down of or curtailment of production at stationary pollution sources during the ozone season.

3. A cap on annual growth of VOC and $NO_x$ emissions from all sources to a pre-determined level.

*Fuel Combustion*

Fuel combustion sources include both VOC and $NO_x$ emissions emitted during the burning of fossil fuels in a wide variety of activities from industrial to agricultural and residential. Emission sources include stationary internal combustion (I/C) engines (pumps, compressors, small generators), boilers, water heaters, and steam generators. Emissions from fuel combustion in the Sacramento AQMA are estimated to be 0.9 t/d of ROG and 11.7 t/d of $NO_x$ in 1990 or 0.6 percent of the total ROG inventory and 9.8 percent of the total $NO_x$ inventory. Because of the importance of these sources to $NO_x$ emissions, fuel combustion controls are primarily $NO_x$ controls.

*Regulatory Measures:* Potential FIP regulatory measures to control $NO_x$ from fuel combustion include the following.

1. Emission standards for, or modifications to, new natural gas residential water heaters.

2. Emission standards or flue-gas controls, use of alternative fuels, burner modifications, and/or operating controls for industrial, institutional, and commercial boilers, steam generators, incinerators, and process heaters.

3. Emission standards for stationary I/C engines; electrification of, use of clean fuels in, flue-gas controls, or engine modifications on such engines.

4. Combustion treatment of exhaust streams, clean fuel use in, or combustion system modifications for afterburners.

5. Substitution of clean fuels (e.g., natural gas, methanol) for current uses of fuel oils/solid fossil fuels in all stationary source fuel combustion processes.

*Prohibitionary Measures:* A potential FIP prohibitory measure to control $NO_x$ from fuel combustion is the following.

1. Restrictions or prohibitions on the use of certain higher-polluting stationary source fuels (e.g., fuel oils) during the ozone season.

[FR Doc. 90-7887 Filed 4-4-90; 8:45 am]

BILLING CODE 6560-50-M

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**40 CFR Part 86**

**[AMS-FRL-37527]**

## Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Evaporative Emissions Regulations for Gasoline and Methanol-Fueled Light-Duty Vehicles, Light-Duty Trucks, and Heavy-Duty Vehicles

**AGENCY:** Environmental Protection Agency.

**ACTION:** Extension of comment period.

**SUMMARY:** This notice announces an extension of the public comment period on EPA's proposed regulation to control evaporative emissions from gasoline and methanol-fueled light-duty vehicles, light-duty trucks, and heavy-duty vehicles. This proposal was published in the **Federal Register** on January 19, 1990 (55 FR 1914).

**DATES:** The public comment period is extended 60 days and will remain open through June 5, 1990.

**ADDRESSES:** Interested parties may submit written comments in response to this notice (in duplicate if possible) to Public Docket No. A-89-18, at: Air Docket section, U.S. Environmental Protection Agency, Attention: Docket No. A-89-18, First Floor, Waterside Mall, Room M-1500, 401 M Street SW., Washington, DC 20460.

Materials relevant to this notice have been placed in Docket Nos. A-85-21 and A-89-18 by EPA. Both dockets are located at the above address and may be inspected between 8:30 a.m. and noon and 1:30 and 3:30 p.m. on weekdays. EPA may charge a reasonable fee for copying docket materials.

**FOR FURTHER INFORMATION CONTACT:** Mr. Alan Stout, Standards Development and Support Branch, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, Telephone: (313) 668-4227.

**SUPPLEMENTARY INFORMATION:** The notice of public hearing concerning this proposed rule was published in the **Federal Register** on January 23 1990 (55

FR 2248), indicating that the public comment period would remain open until April 6, 1990. Subsequent to publication of the notice of public hearing, EPA received a request from the Motor Vehicle Manufacturers Association (MVMA) to extend the public comment period for 90 days.

If new Clean Air Act requirements were to be passed requiring compliance in the 1994 model year (as appears likely at this date), any delay in the rulemaking would reduce the ultimate leadtime available to manufacturers. At the hearing, EPA asked for manufacturer input on whether an extension of the comment period was still desirable in the context of a likely commensurate reduction in available compliance leadtime. MVMA, the Automobile Importers Association, and Ford Motor Company subsequently reinforced the earlier 90-day MVMA request for an extension in letters to EPA; Chrysler and Volkswagen similarly requested 60 days. EPA has reviewed these requests in light of the Agency's desire to assure sufficient opportunity for public participation while not unnecessarily delaying the rulemaking process or reducing ultimate compliance leadtime.

The basic concepts presented at the public hearing were outlined in the January **Federal Register** notice (and available earlier to most manufacturers). The changes EPA envisions in the evaporative test procedure do not represent a significant departure from current EPA policy toward evaporative emissions. For example, such changes as additional or longer diurnal tests, different tank heating methods, incorporation of a running loss test, or different test conditions involve changes in the measurement of evaporative emissions, but not fundamental changes in EPA's longstanding regulatory goal of essentially eliminating evaporative emissions under most in-use conditions. Still, some additional specific information on certain points is now available in the record. In order to provide time for more thorough comment, EPA believes that it is appropriate to extend the comment period for 60 days.

In addition to comments requested in the NPRM, EPA encourages comments on any aspect of testimony by other commenters, including the details of General Motors' alternate test procedure presented at the March 5 workshop and on the outline of Toyota's alternate test procedure presented at the March 6 public hearing. (Details of these procedures are in the Public Docket A–89–18; see **"ADDRESSES"**, above.) EPA also requests comments on (1) what the appropriate form and value the standard(s) should be if a running loss test or a separate resting loss test is added (including whether standards should be combined or separate), and (2) possible methods of preloading evaporative canisters without use of a test SHED. Finally, in light of comments suggesting that a fuel spitback test might be an appropriate substitute for the proposed in-use refueling rate requirement, EPA requests comment on how such a test could be conducted, what standard would be appropriate, and what vehicle design feasibility and cost issues would result.

Dated: March 29, 1990.

**Michael H. Shapiro,**

*Acting Assistant Administrator for Air and Radiation.*

[FR Doc. 90–7888 Filed 4–4–90; 8:45 am]

BILLING CODE 6560–50–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

**RIN 0980–AA42**

**45 CFR Part 96**

### Social Services Block Grant Program; New Reporting Requirements

**AGENCY:** Office of Human Development Services, HHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Department is issuing this Notice of Proposed Rulemaking to implement new reporting requirements for the Social Services Block Grant program. As required by statute, we are proposing uniform definitions of services for use by the states in submitting certain required information in their annual reports.

**DATES:** Comments must be received on or before June 4, 1990.

**ADDRESSES:** Comments should be submitted in writing to Frank Burns, Office of Policy, Planning and Legislation, Office of Human Development Services, Room 312F, Hubert Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

In addition, any comments pertaining to the information collection requirements found in § 96.74 of this proposed rule should be filed with the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3002, Washington, DC 20503, *Attention:* Desk Officer for the Office of Human Development Services.

Comments received in response to this notice may be reviewed at the Office of Human Development Services, address above, between the hours of 9:00 a.m., and 5:30 p.m., Monday through Friday, except Federal holidays, beginning two weeks after the close of the comment period.

**FOR FURTHER INFORMATION CONTACT:** Janet Hartnett (202) 245–7027 or Richard Greenberg (202) 245–6275.

**SUPPLEMENTARY INFORMATION:**

#### I. Program Description

The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) amended title XX of the Social Security Act (the Act), 42 U.S.C. 1397, to establish the Social Services Block Grant (SSBG) program. Under this program, grants are made to the 50 states, the District of Columbia, and other eligible jurisdictions (Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands) for use in funding a variety of social services directed towards the needs of individuals and families residing within each state.

In fiscal year 1989, $2.7 billion was allotted to states based on the statutory formula. Within the specific limitations in the law (42 U.S.C. 1397d), each state has the flexibility to determine what services will be provided, who is eligible to receive services, and how funds are distributed among the various services within the state. State or local SSBG agencies (i.e., county, city, regional offices) may provide these services directly or purchase them from qualified agencies and/or individuals.

#### II. New Statutory Requirements

Prior to passage of the Family Support Act of 1988, section 2006 of the Social Security Act (42 U.S.C. 1397e) required each state to report biennially on activities carried out under the SSBG. The report was required to include information which provided an accurate description of such activities, a complete record of the purposes for which funds were spent, and the extent to which funds were spent consistent with the state's pre-expenditure report required by section 2004 (42 U.S.C. 1397c). Copies of the report were to be made available for public inspection within the state and be sent to the Secretary. Copies were also to be provided, on request, to any interested public agency, and each such agency could provide its views on these reports to Congress.

Section 607 of the Family Support Act of 1988, Public Law 100–485, amended section 2006 to require that reports be

submitted annually rather than biennially. In addition, a new subsection 2006(c) was added to require that the following specific information be submitted as a part of each state's annual report:

(1) The number of individuals who receive services paid for in whole or in part with Federal funds under the SSBG, showing separately the number of children and the number of adults who received such services;

(2) The amount of SSBG funds spent in providing each service, showing separately the amount spent per child recipient and the amount spent per adult recipient;

(3) The method(s) by which each service is provided, showing separately the services provided by public agencies, private agencies, or both; and

(4) The criteria applied in determining eligibility for each service, such as income eligibility guidelines, sliding fee scales, the effect of public assistance benefits, and any requirements for enrollment in school or training programs.

Section 2006(c) also directs the Secretary to establish uniform definitions of services for use by the states in preparing the above information and to "make such other provision as may be necessary or appropriate to assure that compliance with these requirements will not be unduly burdensome on the States."

### III. Background

The SSBG was enacted in fiscal year 1981 to replace the previous title XX program that had been in effect since 1975. Although similar to the block grant program, the predecessor program had contained a number of administrative and reporting requirements which were not continued when the SSBG became operational in fiscal year 1982.

Reporting requirements implementing the prior title XX program included the Social Service Reporting Requirements (SSRR)—a system of quarterly and annual reports from states of unduplicated counts of recipients, by service, by eligibility category, by expenditure of funds, by method of provision, and by title XX goal, as well as special reports on child day care.

Beginning in 1982, the Office of Human Development Services, which administers the SSBG, has funded the American Public Welfare Association to operate a Voluntary Cooperative Information System to collect data on state SSBG services, expenditures, and numbers of individuals served. States have supported the concept of a voluntary information collection system, but not all states have submitted complete data.

Due in part to the flexibility in the SSBG statute, many state social services programs have changed in the past several years. Some states offer as many as 30 or more services while two States currently use all their SSBG funds to support one or two major services. Other states have combined all services into a few broad "service clusters" or "service programs." There are also great variations among the states in their definitions of services.

States also have modified their planning and budget processes to move towards consolidated or comprehensive service planning and to better integrate block grant funds with other Federal, state and local social service dollars. Based on our knowledge of state programs, discussions with state officials, and studies of state data collection capability, many states design a total social services program, which may be administered by one or more state agencies, and then proceed to allocate funds to carry out this program utilizing Federal dollars to the maximum extent possible. SSBG funds typically are commingled with other funds in the state's treasury. Thus, when the state legislature appropriates money for specific services programs, it is not clear whether or to what extent, SSBG funds are being utilized for any specific service.

We have tried to take into account the history of past and current title XX data collection efforts and the changes in state planning and funding of social services in drafting this Notice of Proposed Rulemaking (NPRM). In addition, we have been guided by several policy criteria:

1. Any proposed requirement or procedure will be evaluated to assure that compliance with and implementation of the requirement will not be unduly burdensome on the states.

2. The uniform service definitions the Department is required to issue will not affect state flexibility in the selection of the services a state chooses to provide, in the state definition of these services, or in the state's use of its SSBG funds.

3. No additional Federal funds will be requested for state implementation of the new statutory requirements.

4. A state is subject to an audit finding for failure to submit an annual report containing the information specified in section 2006 of the Act.

For example, to help reduce the administrative burden on states, we propose to allow states to submit recipient and expenditure data based on sampling or estimates only if actual data are not available. In such cases, the states are to indicate which of the data reported are based on sampling and estimation and provide a description of the sampling and estimating process used. We also propose to limit the collection of information to the state's use of SSBG funds and not require a report on a state's total social service expenditures. However, we encourage states to include additional data in the annual reports. We believe such data are of interest to the citizens of the state as well as to the Department; we also believe such data, in many instances, are readily available, e.g., in state agency reports to the Governor or to the legislature. Finally, we are determined that no Federal purpose would be served by requiring states to report an unduplicated count of recipients.

The list of uniform service definitions in Appendix A in no way mandates how a state is to design or deliver services under the SSBG. The purpose of the uniform definitions is to obtain national information on the SSBG program. We have tried to develop definitions that are descriptive and inclusive so that states will be able to either find a definition that corresponds to, encompasses, or includes each of the state's services. Services that do not fit within the uniform definitions must be listed under the category "Other Services."

We have attempted to implement the statutory requirements without placing an undue burden on the states, given the variations among state service programs, reporting capabilities, and levels of technical expertise. We solicit comments and, more importantly, we seek recommendations on ways to improve these proposals and help assure that useful national SSBG data will be available.

### IV. Section by Section Discussion of the NPRM

This NPRM proposes requirements that each state must meet in implementing section 2006. It proposes, in Appendix A, the uniform definitions of 26 services, a 27th category "Other Services," and a 28th category "Other Expenditures" that a state must use in preparing the information required by section 2006(c). It also proposes to require the use of the one page reporting form in Appendix B for the numerical data required by section 2006(c). The NPRM does not propose to specify the content or format of the other information that must be included in the annual report as required by section 2006.

*A. Annual Reports and Reporting Deadlines*

We propose to amend 45 CFR 96.17 to remove the references to a state's submittal of biennial SSBG reports and to add a requirement that each state must submit an annual SSBG report. These changes reflect the new requirement in section 2006(a).

The deadlines will remain the same for submittals of the annual report, i.e., within six months of the end of the period covered by the report; or at the time the state submits its pre-expenditure report (application) for funding for the Federal Fiscal Year which begins subsequent to the expiration of that six month period.

*B. Annual Report*

We propose to add a new § 96.74 to 45 CFR part 96, subpart G, Social Services Block Grants. Paragraph (a) of § 96.74 sets forth the requirement in the statute for an annual report which covers the most recently completed fiscal year, meets the requirements of section 2006(a) of the Act, and includes the specific recipient and expenditure data, by services, required in section 2006(c). Each state's annual report must include, in addition to the other requirements of section 2006, the specific information required by section 2006(c) as follows:

- The number of adults and the number of children who received SSBG services paid for in whole or in part with SSBG funds;
- The amount of funds spent in providing each service showing separately the average amount spent per child recipient and per adult recipient;
- The method by which each service was provided showing which services were provided by public agencies, by private agencies, or by both; and
- The eligibility criteria for each service.

*C. General Requirements*

Paragraph (b)(1) of § 96.74 proposes that each state must use the uniform definitions of services proposed in Appendix A in submitting the data required by paragraphs (a)(1) through (3).

We do not expect that these uniform definitions will be identical to those used by the states. As discussed earlier, we have tried to develop definitions that are descriptive and broadly inclusive with illustrative examples of component services and activities. Not every state will provide all the component services and activities nor is it expected to. The task for the state is to compare the services provided by the state with the uniform definitions and categorize those services under the uniform definitions for reporting purposes. Otherwise, the state must list the service(s) under the "Other Services" category and include its definition of all such other services in the annual report.

Paragraph (b)(2) of § 96.74 proposes that each state must use the form in Appendix B to report the recipient, expenditure, and other data required by paragraphs (a)(1) through (3). Because these data, for the most part, are numerical, we have proposed the mandatory use of what we believe is a simple reporting form for uniformity and ease of compilation of the data by the Department.

For the same reasons, we have proposed in paragraph (c) of this section that states, at their option, may submit these data electronically. A standard reporting form will expedite such reporting.

Paragraph (b)(3) of § 96.74 proposes to clarify statutory requirements for reporting of recipient and expenditure data. We propose that each state must report actual numbers of recipients and actual expenditure figures where available. We also propose that recipient and expenditure data be reported for SSBG dollars only. If actual data are not available, data based on sampling and/or estimates will be accepted.

Although the availability of actual recipient and expenditure data varies from state to state, and even from service within a state, it is our understanding from initial discussions with state representatives that a considerable amount of actual data may be available. For national information collection and policy making purposes, this is most desirable.

However, if actual data for a particular service are not available, and the state uses sampling or estimating procedures to obtain and report the data, the state must indicate on the reporting form which data are actual numbers and which are based on sampling or estimating. States must also include a description of the sampling or estimating process in the annual report. Such information is needed so that we can evaluate and, if necessary, determine the statistical reliability of the national data.

In addition, states are encouraged to include in the annual report information on the state's entire social services program and to indicate how SSBG funds are used to carry out that program. Such information would more accurately reflect total state efforts on behalf of its needy populations.

Funds transferred from other block grants to the SSBG are considered SSBG funds and, as such, must be included in the annual report.

The purpose of the state's annual report is to provide a complete and accurate description of how the state used its block grant funds. Therefore, we have proposed in paragraph (b)(4) that the State must use category 28, "Other Expenditures," to report all non-service expenditures. The dollor figure for total services and other expenditures must equal the state's allotment for that fiscal year plus any funds transferred from other programs to the SSBG.

"Other Expenditures" may include transfers to other block grant programs, staff training, or other administrative costs. However, in the interest of reducing reporting burden, expenditures such as training for foster parents or licensing of child day care homes and facilities may be reported either under category 23 or under the category "Foster Care Services for Children" or "Child Day Care Services" respectively, depending on how the state accounts for these activities.

In paragraph (b)(5), we propose that each State must use its own definition of the terms "child" and "adult" in reporting the recipient and expenditure data required in paragraphs (a)(1) through (3). Since States currently use their own definitions of these terms in determining eligibility for services, and since these definitions vary from State to State as well as among services within a State, we have chosen not to propose uniform definitions of these terms.

In paragraph (b)(6), however, we propose that the State's definition of "child" and "adult" must be included in the annual report as a part of the description of the eligibility criteria for each service as specified in paragraph (a)(4) of this section.

Given the statutory requirement for detailed information on eligibility criteria, it was not feasible to require that States include that information on the reporting form. Therefore, the description of the eligibility criteria for each service may be submitted in the annual report in whatever format the State chooses.

Only total expenditure figures need be reported for category 28; the totals should not be reported by recipient count or costs per adult/child.

*D. Electronic Transmission of Data*

Section 2006(a) requires that the annual report be made available for public inspection within the State and that a copy be transmitted to the Secretary. Copies also must be provided on request to any interested public

agency and each such agency may provide its views on these reports to the Congress.

Based on consultation with representatives from a number of States and a review of a number of State information collection systems, we found that many States currently have an electronic systems reporting capability. Therefore, we propose in paragraph (c) of § 96.94 that States, at their option, may submit data electronically. We have described in Appendix B what we believe is a simple electronic procedure whereby States, using the reporting format in Appendix B, may submit the data specified in paragraphs (a)(1) through (3) of this section.

Electronic reporting will assist the Department to analyze and make available more quickly national information on services, recipients, and expenditures for Congress and others.

*E. Uniform Definitions of Services—Appendix A*

As noted earlier, one of the Department's policy criteria in developing this NPRM was that the uniform services definitions will not affect the State's flexibility in the use of its block grant funds. We have tried to propose definitions that would permit a State to determine under which of the uniform definitions each of the State's services belongs and to report accordingly.

In developing these definitions, we analyzed a wide range of materials including the service definitions in the SSRR, various taxonomies developed both by and for the Department, service definitions from private agency sources, standard social work reference materials, and definitions of services included in State pre-expenditure reports.

Also, as we noted earlier, we have tried to develop definitions that are descriptive and inclusive rather than detailed and limiting. Our aim was to define the major services—services that at least ten or more States currently are providing using SSBG funds—but to limit the definitions to a manageable number. For some services, this was comparatively easy. For example, in fiscal year 1988, 22 States provided a service called "Prevention and Intervention" while 16 States provided a service called "Special Services for Children and Youth." In analyzing State definitions, we concluded that the purpose of both services was generally the same and the activities were similar, i.e., to provide preventive services in instances of abuse, neglect, or family violence. We have combined these two services into the uniform definition called "Prevention and Intervention Services." Other examples where we have combined services include:

- "Substitute Care and Placement of Children" is combined with "Foster Care for Children";
- "Day Training Services" is combined with "Services for the Developmentally Disabled, the Blind and the Physically Handicapped";
- "Diagnosis and Evaluation Services" is combined with "Health Related Services" or "Prevention and Intervention Services," depending on the State's program;
- "Emergency Services" are almost always defined by States in the context of and can be included under "Protective Services for Children."

However, in developing these definitions, we identified several issues on which we request specific public comment.

Issue I. Counseling, Case Management and Transportation Services

We have proposed definitions for these three services in Appendix A but request comment from states and others as to whether they should be reported as separate services or included only as components of other services. On the one hand, these three services are frequently component parts of many other services, and thus would be reported as a part of those services. On the other hand, these three services were also listed separately in the fiscal year SSBG 1988 pre-expenditure reports by 22 states (counseling), 20 states (case management), and 27 states (transportation), respectively.

The Department's recommendation is that states which collect recipient and expenditure data for these three services should report such data. In other states where counseling, case management, and transportation are component parts of other services, the state should not be required to break out costs and recipient numbers for these activities. We invite comment on this issue, particularly on whether consistency of state reporting on these services is desirable.

Issue 2. Home Based Services

For the past several years, the Department, along with others in the social services community, has combined and reported several closely related services—homemaker services, chore services, home management services, home health services, and home maintenance services—as "Home Based Services." In the proposed uniform definition of "Home Based Services" we have included all of these services except home health services which we propose to include in "Health Related Services."

We are interested in knowing if this practice should be continued or whether each component service should be reported separately, and if so why.

Issue 3. Omitted Services

States provide such a wide range of services which vary from state to state that it was not possible or even desirable to propose a definition for all services. (Our rule of thumb for inclusion was that 10 or more states provided the service with SSBG funds.) States will report on all services not defined in Appendix A by listing them under category 27, "Other Services." In addition to changes in the uniform definitions, we solicit recommendations for and definitions of services which may have been inadvertently omitted.

**V. Impact Analysis**

*Executive Order 12291*

Executive Order 12291 requires that a regulatory analysis be prepared for major rules, which are defined to include any rule that has an annual effect on the economy of $100 million or more, or certain other specified effects. The proposed regulatory changes would add new requirements the pre-existing state reporting duties and are thus unlikely to have an effect on the economy of $100 million, or any of the other effects specified in the Executive Order. Therefore, the Secretary concludes that this regulation is not a major rule under Executive Order 12291 and a regulatory impact analysis is not required.

*Regulatory Flexibility Act of 1980*

The Regulatory Flexibility Act (5 U.S.C., Ch. 6) requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses. For each rule with a "significant economic impact on a substantial number of small entities," an analysis must be prepared describing the rule's impact on small entities. Small entities are defined in the Act to include small businesses, small non-profit organizations, and small governmental entities. This regulation, if promulgated, will affect only state governments. For this reason, the Secretary certifies that these rules will not have a significant impact on a substantial number of small entities.

*Paperwork Reduction Act*

Under the Paperwork Reduction Act of 1980, Public Law 96–511, all Departments are required to submit to the Office of Management and Budget

(OMB) for review and approval any reporting or recordkeeping requirements in a proposed or final rule.

As required by section 3504(h) of the Paperwork Reduction Act of 1980, we will submit a copy of this NPRM to OMB for its review of the proposed information collection requirements.

Organizations and individuals desiring to submit comments on information collection requirements should direct them to the agency official whose name appears in this preamble and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building, Room 3002, Washington, DC 20503, *Attention:* Angela Antonelli, Desk Officer for the Office of the Assistant Secretary for Human Development Services, Department of Health and Human Services.

**List of Subjects in 45 CFR Part 96**

Administrative practice and procedure, Aged, Alcoholism, Child welfare, Community action program, Drug abuse, Energy, Grant programs-energy, Grant programs-health, Grant programs-Indians, Grant programs-social programs, Health, Indians, Investigations, Low and moderate income housing, Maternal and child health, Mental health programs, Public health, Reporting and recordkeeping requirements, Social Security.

(Catalog of Federal Domestic Assistance Number 13.667, Social Services Block Grant)

Dated: December 21, 1989.

**Mary Sheila Gall,**

*Assistant Secretary for Human Development Services.*

Approved: January 23, 1990.

**Louis W. Sullivan,**

*Secretary.*

For the reasons set forth in the preamble, part 96 of title 45 of the Code of Federal Regulations is amended as follows:

## PART 96—[AMENDED]

1. The authority for part 96 of title 45 is revised to read as follows:

**Authority:** 42 U.S.C. 300w et seq.; 42 U.S.C. 300y et seq.; 42 U.S.C. 701 et seq.; U.S.C. 8621 et seq.; 42 U.S.C. 9901 et seq.; 42 U.S.C. 1397 et seq.; 31 U.S.C. 1243 note.

2. Section 96.1 is amended by revising paragraph (f) to read as follows:

**§ 96.1 Scope.**

* * * * *

(f) Social services (Pub. L. 97–35, sections 2351–55, 42 U.S.C. 1397–1397e as amended).

* * * * *

3. Section 96.17 is amended by removing the requirement for biennial social services block grant reports and adding a requirement for annual social service block grant reports. Section 96.17 is republished with the above changes to read as follows:

**§ 96.17 Annual reporting deadlines.**

Except for the low-income home energy assistance program activity reports, a State must make public and submit to the Department, each annual report required by statue:

(a) Within six months of the end of the period covered by the report; or

(b) At the time the State submits its application for funding for the Federal fiscal year which begins subsequent to the expiration of that six-month period.

These reports are required annually for preventive health and health services (42 U.S.C. 300w-5(a)(1)), alcohol and drug abuse and mental health services (42 U.S.C. 300x-5(a)(1)), maternal and child health services (42 U.S.C. 706(a)(1), and the social services block grant (42 U.S.C. 1397e(a)). See § 96.82 for requirements governing the submisssion of activity reports for the low-income home energy assistance program.

4. A new § 96.74 is added to read as follows:

**§ 96.74 Annual reporting requirements.**

(a) *Annual report.* In accordance with 42 U.S.C. 1397e, each state must submit an annual report to the Secretary by the due dates specified in § 96.17 of this part. The annual report must cover the most recently completed fiscal year and, except for the data in paragraphs (a)(1) through (3) of this section, may be submitted in the format of the state's choice. The annual report must address the requirements in section 2006(a) of the Act and must include the specific data required by section 2006(c) as follows:

(1) The number of individuals who receive services paid for in whole or in part with Federal funds under the Social Security Block Grant, showing separately the number of children and the number of adults who received such services;

(2) The amount of Social Services Block Grant funds spent in providing each service, showing separately the average amount spent per child recipient and per adult recipient;

(3) The method(s) by which each service is provided, showing separately the services provided by public agencies, private agencies, or both; and

(4) The criteria applied in determining eligibility for each service such as income eligibility guidelines, sliding fee scales, the effect of public assistance benefits, and any requirements for enrollment in school or training programs.

(b) *General requirements.* (1) Each state must use the uniform definitions or services in Appendix A of this part, categories 1–26, in submitting the data required in paragraph (a) of this section. Where a state cannot use the uniform definitions, it should report the data under category 27, "Other Services." The state's definitions of each of the services listed in the "Other Services" category must be included in the annual report.

(2) Each state must use the reporting form in Appendix B of this part to report the data required in paragraphs (a)(1) through (3) of this section.

(3) In reporting recipient and expenditure data, each state must report actual numbers of recipients and actual expenditures when this information is available. Data based on sampling and/or estimates will be accepted when actual figures are unavailable. Each state must indicate for each service whether the data are based on actual figures, sampling, or estimates and must describe the sampling and/or estimation process(es) it used to obtain these data in the annual report.

(4) In order to completely and accurately account for all funds for each fiscal year, each state must use category 28, "Other Expenditures," to report all non-service expenditures. Only total dollar amounts in this category are required, i.e., they need not be reported by recipient count or cost per adult/child. The total in the Expenditure column (services plus other expenditures) must equal the state's allotment for that fiscal year plus any funds transferred to the SSBG program from other block grants.

(5) Each state must use its own definition of the terms "child" and "adult" in reporting the data required in paragraph (a)(1) through (3) of this section.

(6) Each state's definition of "child" and "adult" must be reported as a part of the eligibility criteria for each service required in paragraph (a)(4) of this section. The data on eligibility criteria may be submitted in whatever format the state chooses as a part of its annual report.

(c) *Electronic transmission of data.* In addition to making the annual report available to the public and to the Department, a state may submit the information specified in paragraphs (a)(1) through (3) of this section using electronic equipment. The required

reporting form and instructions are found in Appendix B of this part.

5. Appendices A and B are added to part 96 as follows:

## Appendix A to Part 96—Uniform Definitions of Services

1. Adoption Services
2. Case Management Services
3. Congregate Meals
4. Counseling Services
5. Day Care Services—Adults
6. Day Care Services—Children
7. Employment, Education and Training Services
8. Family Planning Services
9. Foster Care Services—Adults
10. Foster Care Services—Children
11. Health Related Services
12. Home Based Services
13. Home Delivered Meals
14. Housing Services
15. Information and Referral Services
16. Legal Services
17. Pregnancy and Parenting Services to Young Parents
18. Prevention and Intervention Services
19. Protective Services for Adults
20. Protective Services for Children
21. Recreational Services
22. Residential Treatment Services
23. Special Services for the Developmentally Disabled, the Blind, and the Physically Disabled
24. Special Services for Juvenile Delinquents
25. Substance Abuse Services
26. Transportation
27. Other Services

**Uniform Definitions of Services**

*1. Adoption Services*

Adoption services are those services or activities provided to assist in bringing about the adoption of a child. Component services and activities may include, but are not limited to, counseling the biological parent(s), recruitment of adoptive homes, and pre- and post-placement training and/or counseling.

*2. Case Management Services*

Case management services are services or activities for the arrangement, coordination, and monitoring of services to meet the needs of individuals and families. Component services and activities may include individual service plan development; counseling; monitoring, developing, securing, and coordinating services; monitoring and evaluating client progress; and assuring that clients' rights are protected.

*3. Congregate Meals*

Congregate meals are those services or activities designed to prepare and serve one or more meals a day to individuals in central dining areas in order to prevent institutionalization, malnutrition, and feelings of isolation. Component services or activities may include the cost of personnel, equipment, and food; nutritional education and counseling; socialization; and other services such as transportation and information and referral.

*4. Counseling Services*

Counseling services are those services or activities that apply therapeutic processes to personal, family, situational, or occupational problems in order to bring about a positive resolution of the problem or improved individual or family functioning or circumstances. Problem areas may include family and marital relationships, parent-child problems, or drug abuse.

*5. Day Care Services—Adults*

Day care services for adults are those services or activities provided to adults who require care and supervision in a protective setting for a portion of a 24-hour day. Component services or activities may include opportunity for social interaction, companionship and self-education; health support or assistance in obtaining health services; counseling; recreation and general leisure time activities; meals; personal care services; and transportation.

*6. Day Care Services—Children*

Day care services for children (including infants, pre-schoolers, and school age children) are services or activities provided in a setting that meets applicable standards of state and local law, in a center or in a home, for a portion of a 24-hour day. Component services or activities may include a comprehensive and coordinated set of appropriate developmental activities for children, recreation, meals and snacks, transportation, health support services, social service counseling for parents, and licensing and monitoring of child care homes and facilities.

*7. Employment, Education and Traning Services*

Employment, education and training services are those services or activities provided to assist individuals in acquiring or learning skills that promote opportunities for employment or improve daily living skills. Component services or activities may include employment screening, assessment, or testing; structured job skills and job seeking skills; specialized therapy (occupational, speech, physical); special training and tutoring, including literacy training and pre-vocational training; counseling; transportation; and referral to community resources.

*8. Family Planning Services*

Family planning services are those educational, comprehensive medical or social services or activities which enable individuals, including minors, to determine freely the number and spacing of their children and to select the means by which this may be achieved. These services and activities include a broad range of acceptable and effective methods and services to limit or enhance fertility, including contraceptive methods (including natural family planning and abstinence), and the management of infertility (including referral to adoption). Specific component services and activities may include preconceptional counseling, education, and general reproductive health care, including diagnosis and treatment of infections which threaten reproductive capability. Family planning services do not include pregnancy care (including obstetric or prenatal care). (Abortion may not be included as a method of family planning.)

*9. Foster Care Services for Adults*

Foster care services for adults are those services or activities that assess the need and arrange for the substitute care and placement of adults with social, physical or mental disabilities, in a community-based care setting suitable to the individual's needs. Component services or activities include assessment of the individual's needs; case planning and case management to assure that the individual receives proper care in the placement; counseling to help with personal problems and adjusting to new situations; assistance in obtaining other necessary supportive services; determining, through periodic reviews, the continued appropriateness of and need for placement; and recruitment and licensing of foster care homes and facilities.

*10. Foster Care Services for Children*

Foster care services for children are those services or activities associated with the provision of an alternative family life experience for abused, neglected or dependent children, between birth and the age of majority, on the basis of a court commitment or a voluntary placement agreement signed by the parent or guardian. Services may be provided to children in a foster family home, child care institution, or supervised independent living situation. Component services or activities may include assessment of the child's needs; case planning and case management to assure that the child receives proper care in the placement; medical care as an integral but sobordinate part of the service; supportive counseling of the child, the child's parents, and the foster parents; referral and assistance in obtaining other necessary supportive services; periodic reviews to determine the continued appropriateness and need for placement; and recruitment and licensing of foster homes and child care institutions.

*11. Health Related and Home Health Services*

Health related and home health services are those in-home or out-of-home services or activities designed to assist individuals and families to attain and maintain a favorable condition of health. Component services and activities may include providing an analysis or assessment of an individual's health problems and the development of a treatment plan; assisting individuals to identify and understand their health needs; assisting individuals to locate, provide or secure, and utilize appropriate medical treatment, preventive medical care, and health maintenance services, including in-home health services and emergency medical services; and providing follow-up services as needed.

*12. Home Based Services*

Home based services are those in-home services or activities provided to individuals or families to assist with household or

personal care activities that improve or maintain adequate family well-being. These services may be provided for reasons of illness, disability, advanced age, absence of a caretaker relative, or to prevent child abuse and neglect.

Major service components include homemaker services, chore services, home maintenance services, and household management services. Component services or activities may include protective supervision of adults and/or children, temporary non-medical personal care, house-cleaning, essential shopping, simple household repairs, yard maintenance, teaching of homemaking skills, training in self-help and self-care skills, assistance with meal planning and preparation, sanitation, budgeting, and general household management.

*13. Home Delivered Meals*

Home-delivered meals are those services or activities designed to prepare and deliver one or more meals a day to an individual's residence in order to prevent institutionalization, malnutrition, and feelings of isolation. Component services or activities may include the cost of personnel, equipment, and food; nutritional education and counseling; socialization services; and information and referral.

*14. Housing Services*

Housing services are those services or activities designed to assist individuals or families in locating, obtaining, or retaining suitable housing. Component services or activities may include tenant counseling; helping individuals and families to identify and correct substandard housing conditions on behalf of individuals and families who are unable to protect their own interests; and assisting individuals and families to understand leases, secure utilities, make moving arrangements and minor renovations.

*15. Information and Referral Services*

Information and referral services are those services or activities designed to provide factual information about services provided by public and private service providers and a brief assessment (but not diagnosis and evaluation) to facilitate appropriate referral to these community resources.

*16. Legal Services*

Legel services are those services or activities provided by a lawyer or other person(s) under the supervision of a lawyer to assist individuals in seeking or obtaining legal help in civil matters such as housing, divorce, child suport, guardianship, paternity, and legal separation. Component services or activities may include receiving and preparing cases for trial, provision of legal advice, representation at hearings, and counseling.

*17. Pregnancy and Parenting Services for Young Parents*

Pregnancy and parenting services are those services or activities for married or unmarried adolescent parents and their families designed to assist young parents in coping with the social, emotional, and economic problems related to pregnancy and in planning for the future. Component services or activities may include securing necessary health care and living arrangements; obtaining legal services; and providing counseling, child care education, and training in and development of parenting skills.

*18. Prevention and Intervention Services*

Prevention and intervention services are those services or activities designed to provide early identification and/or timely intervention to address the problems of disruption of family life caused by abuse or neglect within the family. Component services and activities may include investigation; assessment and/or evaluation of the extent of the problem; counseling, including mental health counseling or therapy as needed; developmental and parenting skills training; respite care; and other services including supervision, case management, and transportation.

*19. Protective Services for Adults*

Protective services for adults are those services or activities designed to prevent or remedy abuse, neglect or exploitation of adults who are unable to protect their own interests. Examples of situations that may require protective services are injury due to maltreatment; lack of adequate food, clothing or shelter; lack of essential medical treatment or rehabilitation services; and lack of necessary financial or other resources. Component services or activities may include immediate intervention; emergency medical services; emergency shelter; developing case plans; initiation of legal action (if needed); counseling for the individual and the family; assessment/evaluation of family circumstances; arranging alternative or improved living arrangements; preparing for foster placement, if needed; and case management and referral to service providers.

*20. Protective Services for Children*

Protective services for children are those services or activities designed to prevent or remedy abuse, neglect, or exploitation of children who may be harmed through physical or mental injury, sexual abuse or exploitation, and negligent treatment or maltreatment, including failure to be provided with adequate food, clothing, shelter, or medical care. Component services or activities may include immediate investigation and intervention; emergency medical services; emergency shelter; developing case plans; initiation of legal action (if needed); counseling for the child and the family; assessment/evaluation of family circumstances; arranging alternative living arrangement; preparing for foster placement, if needed; and case management and referral to service providers.

*21. Recreational Services*

Recreational services are those services or activities designed to provide, or assist individuals to take advantage of, individual or group activities directed towards promoting physical, cultural, and/or social development.

*22. Residential Treatment Services*

Residential treatment services provide short-term residential care and comprehensive treatment and services for children or adults whose problems are so severe or are such that they cannot be cared for at home or in foster care and need the specialized services provided by specialized facilities. Component services and activities may include diagnosis and psychological evaluation; alcohol and drug detoxification medical services; individual, family, and group thereapy and counseling; remedial education and GED preparation; vocational or pre-vocational training; training in activities of daily living; supervised recreational and social activities; case management; transportation; and referral to and utilization of other services.

*23. Special Services for the Developmentally Disabled, the Blind, and the Physically Disabled*

Special services for the developmentally disabled, the blind, and the physically handicapped are services or activities to help alleviate the effects of a physical and/or mental handicap including emotional handicaps, and to enable these persons to live in the least restrictive environment possible. Component services or activities may include personal and family counseling; and training in mobility, communication skills, the use of special aids and appliances, and self-sufficiency skills. Residential and medical services may be included only as an integral, but subordinate, part of the services.

*24. Special Services for Juvenile Delinquents*

Special services for juvenile delinquents are those services or activities for youth who are, or who may become, involved with the juvenile justice system and their families. Component services or activities are designed to enhance family functioning and/or modify the youth's behavior with goal of developing socially appropriate behavior and may include counseling, intervention thereapy, and residential and medical services if included as an integral but subordinate part of the service.

*25. Substance Abuse Services*

Substance abuse services are those services or activities that are primarily designed to deter, reduce, or eliminate substance abuse or chemical dependency. Except for initial detoxification services, medical and residential services may be included but only as an integral but subordinate part of the service. Component substance abuse services or activities may include a comprehensive range of personal and family counseling methods, methadone treatment for opiate abusers, or detoxification treatment for alcohol abusers. Services may be provided in alternative living arrangements such as institutional settings and community-based halfway houses.

*26. Transportation Services*

Transportation services are those services or activities that provide or arrange for the travel, including travel costs, of individuals in

order to access services, or obtain medical care or employment. Component services or activities may include special travel arrangement such as special modes of transportation and personnel to accompany or assist individuals or families to utilize transportation.

*27. Other Services*

Services that do not fall within the definitions of the preceeding 26 services should be listed under this heading.

## Appendix B to Part 96—SSBG Reporting Form and Instructions

*Instructions*

The form in Appendix B is proposed as the annual reporting instrument that states must use in implementing certain of the statutory reporting requirements in section 2006(c) of the Act. Following are instructions on how to complete the form:

1. Enter the name of the state submitting the form.

2. Eenter the fiscal year for which the form is being submitted.

3. The first column lists 27 service categories that must be used for reporting purposes only. If the services your state provides reasonably fit the definitions in categories 1–26, please use them. In some cases, a service that a state provides may need to either be split into two service categories, or two services merged into one service category. In cases where no fit is possible between the state services and the uniform defintiions, use the "Other Services" category. Please list all services included in the "Other Services" category and include a definition of each service elsewhere in the annual report.

Under category 28, "Other Expenditures," please list all other non-service expenditures, e.g., training or transfers to other block grants, to fully account for the SSBG annual allotment for that fiscal year.

States may use additional forms as necessary to add additional services and expenditures.

In reporting the following numerical data, a state should use its own definitions of the terms "adult" and "child." Eligibility criteria for each service must be described elsewhere in the annual report and must include the state's definition of "adult" and "child' for each service.

4. Under "Number of Recipients—Adults" enter the number of adults who received each service, funded in whole or in part with SSBG funds.

5. Under "Number of Recipients—Children" enter the number of children who received each service, funded in whole or in part with SSBG funds.

6. Under "Number of Recipients—Total" enter the total number of recipients of each service. In most cases, this will be the sum of adults and children reported in the preceding two columns. Actual recipient counts and expenditure amounts are to be used when available. If actual counts are not available, sampling and/or estimating may be used to derive the numbers in this report.

7. Under "Expenditures—Total" enter the total SSBG funds expended for recipients of each service and for "Other Expenditures." Expenditure amounts are to include only SSBG funds, even though a state may comingle SSBG funds with state and local funds. This figure should equal the state's annual allotment for that fiscal year.

8. Under "Expenditures—Per Adult" enter the average amount of SSBG funds expended on each adult recipient of each service.

9. Under "Expenditures—Per Child" enter the average amount of SSBG funds expended on each child recipient of each service.

10. Under "Provision Method—Public/Private" enter a check mark or "x" in the appropriate column(s) to indicate whether each service was provided by a public agency or a private agency. In some cases, a given service may be provided by both methods, in which case both columns would be checked.

11. Enter the name, title, and phone number of a contact person who can answer questions about the data.

12. On a second copy of the form, enter the appropriate letter A, E, or S (for actual, estimated, or sampled, respectively) in each cell (or group of cells) to indicate how the data for each cell (or group of cells) was derived. When analyzed, this will indicate how much statistical confidence can be given to the data collected from all States.

### Optional Report Submission Using Personal Computer Diskettes

States with personal computer (PC) equipment available may submit this data using PC dickettes in addition to the hardcopy form in Appendix B which will be submitted with the complete annual report. Diskettes should be 5¼", double side double density with a formatted capacity of 186 kilobytes. Data may be submitted using Lotus 1–2–3, DBase III or IV, Wordstar, Word Perfect, or ASCII formats. Use of Lotus 1–2–3 is preferred, but any of the other formats listed may be used. If a State wishes to use a format other than listed here, permission to use other formats can be obtained by calling Richard D. Greenberg on (202) 245–6275.

Use of diskettes can greatly reduce transcription errors and also facilitate processing of the data once received. We anticipate that many states will want to use this method of reporting.

STATE: _____

Report Covers Period
of _____ to _____
Mo./Yr Mo./Yr.

ANNUAL REPORT OF SERVICES FUNDED BY THE SOCIAL SERVICES BLOCK GRANT (SSBG) FOR FISCAL YEAR 19__

| Service/Expenditures | Number of recipients | | | Expenditures | | | Provision method | |
|---|---|---|---|---|---|---|---|---|
| | Adults | Children | Total | Per adult | Per child | Total | Public | Private |
| 1. Adoption services | | | | | | | | |
| 2. Case management | | | | | | | | |
| 3. Congregate meals | | | | | | | | |
| 4. Counseling services | | | | | | | | |
| 5. Day care—Adults | | | | | | | | |
| 6. Day care—children | | | | | | | | |
| 7. Empl/educ./tng. svcs | | | | | | | | |
| 8. Family planning svcs | | | | | | | | |
| 9. Foster care—adults | | | | | | | | |
| 10. Foster care—child | | | | | | | | |
| 11. Health related svcs | | | | | | | | |
| 12. Home based services | | | | | | | | |
| 13. Home delivered meals | | | | | | | | |
| 14. Housing services | | | | | | | | |
| 15. Info. & referral | | | | | | | | |
| 16. Legal services | | | | | | | | |
| 17. Pregnancy & parenting | | | | | | | | |
| 18. Prevention/intervention | | | | | | | | |
| 19. Protective svcs.—adults | | | | | | | | |
| 20. Protective svcs.—child | | | | | | | | |
| 21. Recreational svcs | | | | | | | | |
| 22. Residential treatment | | | | | | | | |
| 23. Spec. svcs.—juv. del | | | | | | | | |
| 24. Spec. svcs.—DD, blind, hand | | | | | | | | |
| 25. Substance abuse svcs | | | | | | | | |

ANNUAL REPORT OF SERVICES FUNDED BY THE SOCIAL SERVICES BLOCK GRANT (SSBG) FOR FISCAL YEAR 19__—Continued

| Service/Expenditures | Number of recipients | | | Expenditures | | | Provision method | |
|---|---|---|---|---|---|---|---|---|
| | Adults | Children | Total | Per adult | Per child | Total | Public | Private |
| 26. Transportation | | | | | | | | |
| 27. Other services | | | | | | | | |
| 28. Other expenditures | | | | | | | | |
| Total Exp | | | | | | | | |

Contact: _____ Date: _____
Phone: _____
Title: _____

[FR Doc. 90-7764 Filed 4-4-90; 8:45 am]
BILLING CODE 4130-01-M

# Notices

Federal Register
Vol. 55, No. 66
Thursday, April 5, 1990

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

March 30, 1990.

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 Public Law 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.

EXTENSION

• *Agricultural Marketing Service*

Food Facility Survey.
CSSD–4, CSSD–5.
On occasion.
Businesses or other for-profit; 625 responses; 375 hours; not applicable under 3504(h).
Richard K. Overheim, (202) 447–8317.

• *Agricultural Stabilization and Conservation Service*

7 CFR Part 1421, General Regulations Governing Price Support for 1978 and Subsequent Crop Years.
CCC–156, 601, 614, 638, 665, 666, 666 (Honey), 677, 678, 678–2, 678–3, 679, 681, 681–1, 685, 686, 687–1, 691, 699, 806, 807, KC–350, UCC–1&3.
On occasion, Annually.
Farms; 1,796,800 responses; 388,450 hours; not applicable under 3504(h).
Alex King, (202) 382–9886.

• *National Agricultural Statistics Service*

June Agricultural Survey.
Annually.
Farms; 122,000 responses; 20,922 hours; not applicable under 3504(h).
Larry Gambrell, (202) 447–7737.

• *Soil Conservation Service*

Rural Abandoned Mine Program (RAMP).
SCS–LPT–11, 11A, 12, 13, 150–156, FNM 140–141.
Recordkeeping; On occasion.
Individuals or households; State or local governments; Farms; 770 responses; 477 hours; not applicable under 3504(h).
Bobby Rakestraw, (202) 382–1866.

New Collection

• *Forest Service.*

CUSTOMER PARVS—(Public Area Vistors Survey).
On occasion.
Individuals or households; 14,583 hours; 4,812 responses; not applicable under 3504(h).
Greg Super, (202) 382–9398.

**Donald E. Hulcher,**
*Acting Departmental Clearance Officer.*
[FR Doc. 90–7861 Filed 4–4–90; 8:45 am]
BILLING CODE 3410–01–M

## Forest Service

### Allegheny National Forest; Elk, Forest, McKean and Warren Counties, PA; Environmental Impact Statement Cancellation Notice

The USDA-Forest Service, Allegheny National Forest, has withdrawn its Notice of Intent to Prepare an Environmental Impact Statement for the limited use of herbicides to control undesirable understory vegetation on some forested lands within the Allegheny National Forest.

The Notice of Intent published in the **Federal Register** on December 18, 1989, is hereby rescinded (FR Doc. 89–29311).

For further information, contact: Brad B. Nelson, Forest Ecologist, or Robert L. White, Forest Silviculturist, Allegheny National Forest, 222 Liberty Street, P.O. Box 847, Warren, PA 16365; telephone 814/723–5150.

Dated: March 30, 1990.

**David J. Wright,**
*Forest Supervisor.*
[FR Doc. 90–7880 Filed 4–4–90; 8:45 am]
BILLING CODE 3410–11–M

### Amendment to the Land and Resource Management Plan for the Shoshone National Forest; Park, Hot Springs, Fremont, Sublette and Teton Counties, WY

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice; intent to prepare an Environmental Impact Statement.

**SUMMARY:** The Shoshone National Forest is initiating actions to prepare an amendment to the Land and Resource Management Plan. This amendment will focus on actions to be taken on 120,000 acres burned by the Clover Mist and other fires in 1988 including recalculation of the amount of timber to be offered from the Forest. Initial review of the scope of this amendment indicates that it will be a significant amendment per 36 CFR 219 and will require preparation of an Environmental Impact Statement.

**DATES:** Comments concerning the Scope of analysis should be received in writing by June 1, 1990.

**ADDRESSES:** Send written comments to: Barry Davis, Forest Supervisor, Shoshone National Forest, P.O. Box 2140, Cody, WY 82414–2140.

**FOR FURTHER INFORMATION CONTACT:** Dr. Tom Mitchell, Forest Planning Staff (307) 527–6241.

**SUPPLEMENTARY INFORMATION:** In 1988, fires burned over 120,000 acres of the Shoshone National Forest. These fires dramatically changed the condition of the forest and its ability to produce goods and services for the American public. In some cases, these fires had detrimental impacts on such things as water quality and habitat for many

species of wildlife. An amendment to the current Land and Resource Management Plan is the appropriate way to analyze and select actions necessary for long term recovery from these fire effects.

Analysis supporting such an amendment will be documented in an Environmental Impact Statement. The scope of this analysis includes:

1. Analysis of possible actions within the burned area to mitigate the effects of the fire and to restore ecological diversity and productivity;
2. Analysis of possible actions in areas adjoining burned areas to replace such things as lost habitat for some wildlife species and recreation opportunities; and
3. Analysis of the maximum amount of timber to be offered from the Forest over the next ten years (the allowable sale quantity or ASQ) as well as the amount to be offered in future decades (the base harvest schedule).

**Background**

The Land and Resources Management Plan for the Shoshone National Forest was approved on February 27, 1986 and implementation began 45 days later. In 1988, the Clover-Mist Fire and other fires burned over 120,000 acres of the Shoshone National Forest. In the Fall of 1988, an interdisciplinary team surveyed much of the burned area in order to identify emergency and long-term rehabilitation needs. Emergency rehabilitation efforts in 1988 were limited to seeding only the most severely burned areas and work along trails for user safety, to provide better drainage and sediment traps to reduce water quality degradation. Beyond this, the emergency rehabilitation team recommended a number of actions for restoration of the entire burned area as well as mitigation of the effects of the fires. In 1989, there were actions taken to deal with some of the more critical areas on the Forest. However, many additional problems associated with the aftermath of these fires emerged in 1989 involving such things as fisheries, soil and water quality and damage, insect and disease problems in burned areas that threaten healthy vegetation, and impacts on wildlife habitat and recreation.

Types of possible treatments, acres to be treated and decisions on what to plant vary by location and with the extent of the fire damage over the 120,000 acres of burn depending on the severity of burn, habitat types, soils, geology and location (within or outside of wilderness areas). Beyond projects planned for the immediate future, there is a need to analyze and select actions for the next ten years and beyond that are necessary for recovery from fire-caused impacts.

Though amendment to the Plan will focus on actions within the burned areas, there is a need to amend the Plan for areas outside the burned areas because:

1. Some actions necessary to recover from the Fire may also require actions outside the burned area—e.g. altering management of adjacent areas to provide replacement habitat for wildlife.
2. The fires burned a significant portion of the lands classified as suited for commercial timber production. By regulation (36 CFR 219), calculation of the amount of timber to be offered and identification of lands suited for production of commercial timber must be done on a forestwide basis. This means that there is a need to recalculate the allowable sale quantity (ASQ) and base harvest schedule for the entire Forest. For such recalculation of the ASQ and base harvest schedule, all lands identified as tentatively suited must be re-examined for suitability and possible management to produce commercial timber volume.
3. Changes in demand for those goods and services directly affected by the fires (e.g. commercial timber, firewood, recreation, wildlife, fisheries and water) will be included in analysis supporting this amendment.

**Analysis and Response to Public Comments**

Formal public involvement efforts will be initiated in April 1990 with meetings in Cody and Dubois, Wyoming. Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the decisions will be invited to participate in this process.

Because this amendment may alter the long term mix of goods and services to be provided from the Shoshone National Forest, it may be a significant amendment. As such, analysis and preparation of this amendment will follow all procedures governing Forest Planning as presented in 36 CFR part 219. This includes all procedures necessary for determining timberland suitability as outlined in these regulations as well as required procedures for calculation of the ASQ and base harvest schedule.

A Draft Environmental Impact Statement and Proposed Amendment are scheduled to be completed by November 1990. The final Environmental Impact Statement and Amendment are scheduled for completion by March 1991.

The comment period on the draft environmental impact statement will be 90 days from the date the Environmental Protection Agency publishes the notice of availability 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 statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 90-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.)

Those having comments now are invited to submit them to Barry Davis, Forest Supervisor or Tom Mitchell, Forest Planning Staff at the Shoshone National Forest.

Dated: March 27, 1990.

**Barry Davis,**

*Forest Supervisor, Shoshone National Forest.*

[FR Doc. 90-7831 Filed 4-4-90; 8:45 am]

BILLING CODE 3410-11-M

## Newspapers Used for Publication of Legal Notice of Appealable Decisions; Eastern Region

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice.

**SUMMARY:** Deciding Officers in the Eastern Region will publish notice of decisions subject to administrative appeal under 36 CFR part 217 in the legal notice section of the newspapers listed in the Supplementary Information section of this notice. As provided in 36 CFR 217.5, such notice shall constitute legal evidence that the agency has given timely and constructive notice of decisions that are subject to administrative appeal. Newspaper publication of notices of decisions is in addition to direct notice to those who have requested notice in writing and to those known to be interested in or affected by a specific decision.

**DATES:** Use of these newspapers for purposes of publishing legal notices of decision subject to appeal under 36 CFR part 217 shall begin April 5, 1990.

**FOR FURTHER INFORMATION CONTACT:** Joni Sue Hanson, Regional Appeals Coordinator, Eastern Region, Reuss Federal Plaza, 310 West Wisconsin Avenue, Milwaukee, Wisconsin 53203, Area Code 414–297–3661.

**SUPPLEMENTARY INFORMATION:** Deciding Officers in the Eastern Region will give legal notice of decisions subject to appeal under 36 CFR part 217 in the following newspapers which are listed by Forest Service administrative unit. Where more than one newspaper is listed for any unit, the first newspaper listed is the primary newspaper which shall be used to constitute legal evidence that the agency has given timely and constructive notice of decisions that are subject to administrative appeal. As provided in 36 CFR 217.5(d), the timeframe for appeal shall be based on the date of publication of a notice decision in the primary newspaper.

*Decisions by the Regional Forester*

*Milwaukee Journal*, published daily in Milwaukee, Milwaukee County, Wisconsin, for decisions affecting National Forest System lands in the States of Illinois, Indiana and Ohio, Michigan, Minnesota, Missouri, New Hampshire and Maine, Pennsylvania, Vermont and New York, West Virginia, Wisconsin and for any decision of Region-wide impact.

**Allegheny National Forest, Pennsylvania**

*Forest Supervisor Decisions*

Warren Times Observer, Warren, Warren County, Pennsylvania District Rangers Decisions:

Sheffield District: Warren Times Observer, Warren, Warren County, Pennsylvania

Bradford District: Bradford Era, Bradford, McKean County, Pennsylvania

Marienville District: Warren Times Observer, Warren, Warren County, Pennsylvania

Oil City Derrick, Oil City, Venango County, Pennsylvania

Ridgway District: Ridgway Record, Ridgway, Elk County, Pennsylvania

**Chequamegon National Forest, Wisconsin**

*Forest Supervisor Decisions*

Milwaukee Sentinel, published daily in Milwaukee, Milwaukee County, Wisconsin

*District Rangers Decisions*

Park Falls District: Park Falls Herald, published weekly in Park Falls, Price County, Wisconsin

Glidden District: Glidden Enterprise, published weekly in Glidden, Ashland County, Wisconsin

Washburn District: The Daily Press, published daily in Ashland, Ashland County, Wisconsin

Hayward District: Sawyer County Record, published weekly in Hayward, Sawyer County, Wisconsin

Medford District: The Star News, published weekly in Medford, Taylor County, Wisconsin

**Chippewa National Forest, Minnesota**

*Forest Supervisor Decisions*

Bemidji Pioneer, published in Bemidji, Beltrami County, Minnesota

*District Ranger Decisions*

Blackduck District: Blackduck American, published in Blackduck, Beltrami County, Minnesota

Cass Lake District: Cass Lake Times, published in Cass lake, Cass County, Minnesota

Deer River District: Western Itasca Review, published in Deer River, Itasca County, Minnesota

Walker District: Walker Pilot Independent, published in Walker, Cass County, Minnesota

**Green Mountain National Forest, Vermont**

*Forest Supervisor Decisions*

Rutland Herald, published daily in Rutland, Rutland County, Vermont

*District Rangers Decisions*

Manchester District: Rutland Herald, published daily in Rutland, Rutland County, Vermont

Bennington Banner, published daily in Bennington, Bennington County, Vermont

Brattleboro Reformer, published daily in Brattleboro, Windham County, Vermont

Rochester District: Rutland Herald, published daily in Rutland, Rutland County, Vermont

Burlington Free Press, published daily in Burlington, Chittenden County, Vermont

Middlebury District: Rutland Herald, published daily in Rutland, Rutland County, Vermont

Addison County Independent, published twice a week in Middlebury, Addison County, Vermont

**Finger Lakes National Forest, New York**

*Forest Supervisors & District Rangers (Hector District) Decisions*

Ithaca Journal, published daily in Ithaca, Tempkins County, New York

**Hiawatha National Forest, Michigan**

*Forest Supervisor Decisions*

Daily Press, published in Escanaba, Delta County, Michigan

*District Rangers Decisions:*

Mining Journal, published in Munising, Alger County, Michigan Evening News, Published in Sault Ste. Marie, Chippewa County, Michigan

**Huron-Manistee National Forests, Michigan**

*Forest Supervisor Decisions*

Cadillac Evening News, published daily in Cadillac, Wexford County, Michigan

Lake County Star, published weekly in Baldwin, Lake County, Michigan

Ludington Daily News, published daily in Ludington, Mason County, Michigan

Alcona County Review, published weekly in Harrisville, Alcona County Michigan

Manistee News Advocate, published daily in Manistee, Manistee County, Michigan

Oscoda County Herald, published weekly in Mio, Oscoda County, Michigan

Crawford County Avalanche, published weekly in Grayling, Crawford County, Michigan
Iosco County News Herald, published weekly in East Tawas, Iosco County, Michigan
Fremont Times-Indicator, published weekly in Fremont, Newaygo County, Michigan
Muskegon Chronicle, published daily in Muskegon, Muskegon County, Michigan
Grand Rapids Press, published daily in Grand Rapids, Kent County, Michigan
Big Rapids Pioneer, published daily in Big Rapids, Mecosta County, Michigan

*District Rangers Decisions*

Baldwin District: Lake County Star, published weekly in Baldwin, Lake County, Michigan
Ludington Daily News, published daily in Ludington, Mason County, Michigan
Cadillac District: Cadillac Evening News, published daily in Cadillac, Wexford County, Michigan
Manistee News Avocate, published daily in Manistee, Manistee County, Michigan
Lake County Star, published weekly in Baldwin, Lake County, Michigan
Harrisville District: Alcona County Review, published weekly in Harrisville, Alcona County, Michigan
Manistee District: Manistee News Advocate, published daily in Manistee, Manistee County, Michigan
Mio District: Oscoda County Herald, published weekly in Mio, Oscoda County, Michigan
Crawford County Avalanche, published in Grayling, Crawford, County, Michigan
Tawas District: Iosco County News Herald, published weekly in East Tawas, Iosco County, Michigan
White Cloud District: Fremont Times-Indicator, published weekly in Fremont, Newaygo County, Michigan
Muskegon Chronicle, published daily in Muskegon, Muskegon County, Michigan
Grand Rapids Press, published daily in Grand Rapids, Kent County, Michigan
Big Rapids Pioneer, published daily in Big Rapids, Mecosta County, Michigan

**Mark Twain National Forest, Missouri**

*Forest Supervisor Decision*

Rolla Daily News, published in Rolla, Phelps County, Missouri

*District Ranger Decisions*

Ava/Cassville District: Springfield News Leader, published daily in Springfield, Greene County, Missouri
Cedar Creek District: Fulton Sun, published daily in Fulton, Callaway County, Missouri
Doniphan District: Prospect News, published daily in Doniphan, Ripley County, Missouri
Eleven Point District: Current Wave, published weekly in Eminence, Shannon County, Missouri
Rolla District: Rolla Daily News, published in Rolla, Phelps County, Missouri
Houston District: Houston Herald, published weekly (Thursdays) in Houston, Texas County, Missouri
Poplar Bluff District: Daily American Republic, published daily in Poplar Bluff, Butler County, Missouri
Potosi/Fredericktown District: St. Louis Post-Dispatch, published daily in St. Louis, St. Louis County, Missouri
Salem District: The Salem News, published weekly (Tuesdays) in Salem, Dent County, Missouri
Willow Springs District: West Plains Daily Quill, published weekly in West Plains, Howell County, Missouri

**Monongahela National Forest, West Virginia**

*Forest Supervisor Decisions*

The Elkins Intermountain, published daily in Elkins, Randolph County, West Virginia

*District Ranger Decisions*

Cheat District: The Parsons Advocate, published in Parsons, Tucker County, West Virginia
Gauley District: The Richwood News Leader, published weekly in Richwood, Nicholas County, West Virginia
Greenbrier District: The Pocahontas Times, published weekly in Marlinton, Pocahontas County, West Virginia
Marlinton District: The Pocahontas Times, published weekly in Marlinton, Pocahontas County, West Virginia
Potomac District: The Grant County Press, published weekly in Petersburg, Grant County, West Virginia
White Sulphur Springs District: The Registered Herald, published weekly in Beckley, Raleigh County, West Virginia

**Nicolet National Forest, Wisconsin**

*Forest Supervisor Decisions*

Rhinelander Daily News published daily Sunday through Friday in Rhinelander, Onieda County, Wisconsin

*District Ranger Decisions*

Eagle River District, Florence District, Lakewood District, and Laona District: Rhinelander Daily News published daily Sunday through Friday in Rhinelander, Onieda County, Wisconsin

**Ottawa National Forest, Michigan**

*Forest Supervisor Decisions*

Ironwood Daily Globe, published in Ironwood, Gogebic County, Michigan

*District Ranger Decisions*

Bergland District, Bessemer District, Iron River District, Kenton District, Ontonagon District, and Watersmeet District: Ironwood Daily Globe, published in Ironwood, Gogebic County, Michigan

**Shawnee National Forest, Illinois**

*Forest Supervisor Decisions*

Southern Illinoisian, published daily in Carbondale, Jackson County, Illinois

*District Ranger Decisions*

Elizabethtown District, Jonesboro District, Murphysboro District, and Vienna District: Southern Illinoisian, published daily in Carbondale, Jackson County, Illinois

**Superior National Forest, Minnesota**

*Forest Supervisor Decisions*

Duluth News-Tribune, published daily in Duluth, St. Louis County, Minnesota

*District Ranger Decisions*

Gunflint Ranger District: Cook County News-Herald, published weekly in Grand Marias, Cook County, Minnesota
Kawishiwi Ranger District: Ely Echo, published weekly in Ely, St. Louis County, Minnesota
LaCroix Ranger District: Mesabi Daily News, published daily in Virginia, St. Louis County, Minnesota
Laurentian Ranger District: Mesabi Daily News, published daily in Virginia, St. Louis County, Minnesota
Tofte Ranger District: Duluth News-Tribune, published daily in Duluth, St. Louis County, Minnesota

**Hoosier National Forest, Indiana**

*Forest Supervisor Decisions*

The Times Mail, published in Bedford, Lawrence County, Indiana

*District Ranger Decisions*

Brownstown District: The Times Mail, published in Bedford, Lawrence County, Indiana
The Seymour Tribune, published in Seymour, Jackson County, Indiana
The Paoli News, published in Paoli, Orange County, Indiana
Tell City District: The News, published in Tell City, Perry County, Indiana

**Wayne National Forest, Ohio**

*Forest Supervisor Decisions*

The Athens Messenger, published in Athens, Athens County, Ohio

*District Ranger Decisions*

Athens District: The Athens Messenger, published in Athens, Athens County, Ohio

Ironton District: The Ironton Tribune, published in Ironton, Lawrence County, Ohio

**White Mountain National Forest, New Hampshire and Maine**

*Forest Supervisor Decisions*

*The Union Leader*, published daily in Manchester, County of Hillsborough, New Hampshire

*District Ranger Decisions*

Ammonoosuc Ranger District: *The Union Leader*, published daily in Manchester, County of Hillsborough, New Hampshire

Androscoggin Ranger District: *The Union Leader*, published daily in Manchester, County of Hillsborough, New Hampshire

Evans Notch Ranger District: The *Lewiston Sun*, published daily in Lewiston, County of Androscoggin, Maine

Pemigewasset Ranger District: *The Union Leader*, published daily in Manchester, County of Hillsborough, New Hampshire

Saco Ranger District: *The Union Leader*, published daily in Manchester, County of Hillsborough, New Hampshire

Dated: March 28, 1990.

**Floyd J. Marita,**

*Regional Forester.*

[FR Doc. 90-7818 Filed 4-4-90; 8:45 am]

BILLING CODE 3410-11-M

## Newspapers Used for Publication of Legal Notice of Appealable Decision for Intermountain Region

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice.

**SUMMARY:** This notice lists the newspapers that will be used by all ranger districts, forests, and the Regional Office of the Intermountain Region to publish legal notice of all decisions subject to appeal under 36 CFR 217. This action is necessary to implement the Secretary of Agriculture's interim rule amending the Forest Service administrative appeal procedures, which was signed on February 26, 1990, and was published in the **Federal Register** on March 6, 1990. The intended effect of this action is to inform interested members of the public which newspapers will be used to publish legal notices of decisions, thereby allowing them to receive constructive notice of a decision, to provide clear evidence of timely notice, and to achieve consistency in administering the appeals process.

**DATES:** Publication of legal notices in the listed newspapers will begin with decisions subject to appeal that are made on or after April 5, 1990. The list of newspapers will remain in effect until October 1990 when another notice will be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Dale Torgerson, Regional Appeals Coordinator, Intermountain Region, 324 25th Street, Ogden, UT 84401, phone (801) 625-5279.

**SUPPLEMENTARY INFORMATION:** On February 26, 1990, the Secretary of Agriculture signed an interim rule amending the administrative appeal procedures 36 CFR 217 of the Forest Service to require publication of legal notice in a newspaper of general circulation of all decisions subject to appeal. This newspaper publication of notices of decisions is in addition to direct notice to those who have requested notice in writing and to those known to be interested and affected by a specific decision.

The legal notice is to identify: the decision by title and subject matter; the date of the decision; the name and title of the official making the decision; and how to obtain copies of the decision. In addition, the notice is to state the date the appeal period begins which is the day following publication of the notice.

The timeframe for appeal shall be based on the date of publication of the notice in the first (principal) newspaper listed for each unit.

The newspapers to be used are as follows:

**Regional Forester, Intermountain Region**

For decisions made by the Regional Forester affecting National Forests in Idaho: *The Idaho Statesman*, Boise, Idaho.

For decisions made by the Regional Forester affecting National Forests in Nevada: *The Reno Gazette-Journal*, Reno, Nevada.

For decisions made by the Regional Forester affecting National Forests in Wyoming: *Casper Star-Tribune*, Casper, Wyoming.

For decisions made by the Regional Forester affecting National Forests in Utah: *Standard-Examiner*, Ogden, Utah.

If the decision made by the Regional Forester affects all National Forests in the Intermountain Region, it will appear in: *Standard-Examiner*, Ogden, Utah.

**Ashley National Forest**

Ashley Forest Supervisors decisions: *Vernal Express*, Vernal, Utah

Vernal District Ranger decisions: *Vernal Express*, Vernal, Utah

Flaming Gorge District Ranger decisions: *Casper Star Tribune*, Casper, Wyoming

Roosevelt and Duchesne District Ranger decisions: *Uintah Basin Standard*, Roosevelt, Utah

**Boise National Forest**

Boise Forest Supervisors decisions: *The Idaho Statesman*, Boise, Idaho

Mountain Home District Ranger decisions: *Mountain Home News*, Mountain Home, Idaho

Boise District Ranger decisions: *The Idaho Statesman*, Boise, Idaho

Idaho City District Ranger decisions: *The Idaho City World*, Idaho City, Idaho

Cascade District Ranger decisions: *The Advocate*, Cascade, Idaho

Lowman District Ranger decisions: *The Idaho City World*, Idaho City, Idaho

Emmett District Ranger decisions: *Emmett Messenger*, Emmett, Idaho

**Bridger-Teton National Forest**

Bridger-Teton Forest Supervisor decisions: *Casper Star-Tribune*, Casper, Wyoming

Jackson District Ranger decisions: *Casper Star-Tribune*, Casper, Wyoming

Buffalo District Ranger decisions: *Casper Star-Tribune*, Jackson, Wyoming

Big Piney District Ranger decisions: *Casper Star-Tribune*, Jackson, Wyoming

Pinedale District Ranger decisions: *Casper Star-Tribune*, Casper, Wyoming

Greys River District Ranger decisions: *Casper Star-Tribune*, Casper, Wyoming

Kemmerer District Ranger decisions: *Casper Star-Tribune*, Casper, Wyoming

**Caribou National Forest**

Caribou Forest Supervisor decisions: *Idaho State Journal*, Pocatello, Idaho

Soda Springs District Ranger decisions: *Idaho State Journal*, Pocatello, Idaho

Montpelier District Ranger decisions: *Idaho State Journal*, Pocatello, Idaho

Malad District Ranger decisions: *Idaho State Journal*, Pocatello, Idaho

Pocatello District Ranger decisions: *Idaho State Journal*, Pocatello, Idaho

**Challis National Forest**

Challis Forest Supervisor decisions: *The Challis Messenger,* Challis, Idaho
Middle Fork District Ranger decisions: *The Challis Messenger,* Challis, Idaho
Challis District Ranger decisions: *The Challis Messenger,* Challis, Idaho
Yankee Fork District Ranger decisions: *The Challis Messenger,* Challis, Idaho
Lost River District Ranger decisions: *The Challis Messenger,* Challis, Idaho

**Dixie National Forest**

Dixie Forest Supervisor decisions: *The Daily Spectrum,* St. George, Utah
Pine Valley District Ranger decisions: *The Daily Spectrum,* St. George, Utah
Cedar City District Ranger decisions: *The Daily Spectrum,* St. George, Utah
Powell District Ranger decisions: *The Daily Spectrum,* St. George, Utah
Escalante District Ranger decisions: *The Daily Spectrum,* St. George, Utah
Teasdale District Ranger decisions: *The Daily Spectrum,* St. George, Utah

**Fishlake National Forest**

Fishlake Forest Supervisor decisions: *Richfield Reaper,* Richfield, Utah
Loa District Ranger decisions: *Richfield Reaper,* Richfield, Utah
Richfield District Ranger decisions: *Richfield Reaper,* Richfield, Utah
Beaver District Ranger decisions: *Beaver Press,* Beaver, Utah
Fillmore District Ranger decisions: *Millard County Chronicle-Progress,* Fillmore, Utah

**Humboldt National Forest**

Humboldt Forest Supervisor decisions: *Elko Daily Free Press,* Elko, Nevada
Mountain City District Ranger decisions: *Elko Daily Free Press,* Elko, Nevada
Jarbidge and Ruby Mountain District Ranger decisions: *Elko Daily Free Press,* Elko, Nevada
Ely District Ranger decisions: *Ely Daily Times,* Ely, Nevada
Santa Rosa District Ranger decisions: *Humboldt Sun,* Winnemucca, Nevada
Jarbidge District Ranger decisions: *Twin Falls Times News,* Twin Falls, Idaho

**Manti-Lasal National Forest**

Manti-Lasal decisions: *Sun Advocate,* Price, Utah
Sanpete District Ranger decisions: *Mt. Pleasant Pyramid,* Mt. Pleasant, Utah
Ferron District Ranger decisions: *Emery County Progress,* Castle Dale, Utah
Price District Ranger decisions: *Sun Advocate,* Price, Utah
Moab District Ranger decisions: *The Times Independent,* Moab, Utah
Monticello District Ranger decisions: *The San Juan Record,* Monticello, Utah

**Payette National Forest**

Payette Forest Supervisor decisions: *Idaho Statesman,* Boise, Idaho
Weiser District Ranger decisions: *Signal American,* Weiser, Idaho
Council District Ranger decisions: *Council Record,* Council, Idaho
New Meadows, McCall, and Krassel District Ranger decisions: *Star News,* McCall, Idaho

**Salmon National Forest**

Salmon Forest Supervisor decisions: *The Recorder-Herald,* Salmon, Idaho
Cobalt District Ranger decisions: *The Recorder-Herald,* Salmon, Idaho
North Fork District Ranger decisions: *The Recorder-Herald,* Salmon, Idaho
Leadore District Ranger decisions: *The Recorder-Herald,* Salmon, Idaho
Salmon District Ranger decisions: *The Recorder-Herald,* Salmon, Idaho

**Sawtooth National Forest**

Sawtooth Forest Supervisor decisions: *The Times News,* Twin Falls, Idaho
Burley District Ranger decisions: *South Idaho Press,* Burley, Idaho
Twin Falls District Ranger decisions: *The Time News,* Twin Falls, Idaho
Ketchum District Ranger decisions: *Wood River Journal,* Hailey, Idaho
Sawtooth National Recreation Area: *Wood River Journal,* Hailey, Idaho
Fairfield District Ranger decisions: *The Times News,* Twin Falls, Idaho

**Targhee National Forest**

Targhee Forest Supervisor decisions: *The Post Register,* Idaho Falls, Idaho
Dubois District Ranger decisions: *The Post Register,* Idaho Falls, Idaho
Island Park District Ranger decisions: *The Post Register,* Idaho Falls, Idaho
Ashton District Ranger decisions: *The Post Register,* Idaho Falls, Idaho
Palisades District Ranger decisions: *The Post Register,* Idaho Falls, Idaho
Teton Basin District Ranger decisions: *Reno Gazette-Journal,* Reno, Nevada

**Toiyabe National Forest**

Toiyabe Forest Supervisor decisions: *Reno Gazette-Journal,* Reno, Nevada
Carson District Ranger decisions: *Reno Gazette-Journal,* Reno, Nevada
Austin District Ranger decisions: *Reno Gazette-Journal,* Reno, Nevada
Bridgeport District Ranger decision: *Mono County Review,* Bridgeport, California
Tonopah District Ranger decisions: *Tonopah Times/Bonanza,* Tonopah, Nevada
Las Vegas District Ranger decisions: *Las Vegas Review Journal,* Las Vegas, Nevada

**Uinta National Forest**

Uinta Forest Supervisor decisions: *The Daily Herald,* Provo, Utah
Pleasant Grove District Ranger decisions: *The Daily Herald,* Provo, Utah
Heber District Ranger decisions: *The Wasatch Wave,* Heber City, Utah
Spanish Fork District Ranger decisions: *Payson Chronicle,* Payson, Utah

**Wasatch-Cache National Forest**

Wasatch-Cache Forest Supervisor decisions: *Salt Lake Tribune,* Salt Lake City, Utah
Salt Lake District Ranger decisions: *Salt Lake Tribune,* Salt Lake City, Utah
Kamas District Ranger decisions: *Salt Lake Tribune,* Salt Lake City, Utah
Evanston District Ranger decisions: *Salt Lake Tribune,* Salt Lake City, Utah
Mountain View District Ranger decisions: *Salt Lake Tribune,* Salt Lake City, Utah
Ogden District Ranger decisions: *Salt Lake Tribune,* Salt Lake City, Utah
Logan District Ranger decisions: *Salt Lake Tribune,* Salt Lake City, Utah

Dated: March 30, 1990

**Clair C. Beasley,**

*Deputy Regional Forester.*

[FR Doc. 90-7819 Filed 4-4-90; 8:45 am]

BILLING CODE 3410-11-M

## Newspapers To Be Used for Publication of Legal Notice of Appealable Decisions for Southern Region

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice.

**SUMMARY:** Deciding Officers in the Southern Region will publish notice of decisions subject to administrative appeal under 36 CFR part 217 in the legal notice section of the newspapers listed in the Supplementary Information section of this notice. As provided in 36 CFR 217.5(d), the public shall be advised, through **Federal Register** notice, of the principal newspaper to be utilized for publishing legal notices of decisions. Newspaper publication of notices of decisions is in addition to direct notice of decisions to those who have requested notice in writing and to those known to be interested in or affected by a specific decision.

**DATES:** Use of these newspapers for purposes of publishing legal notices of decisions subject to appeal under 36 CFR part 217 shall begin on or after April 5, 1990.

**FOR FURTHER INFORMATION CONTACT:** Jean Paul Kruglewicz, Regional Appeals

Coordinator, Southern Region, Planning and Budget, 1720 Peachtree Road NW, Atlanta, Georgia 30367–9102, Phone: 404–347–4867.

**SUPPLEMENTARY INFORMATION:** Deciding Officers in the South Region will give legal notice of decisions subject to appeal under 36 CFR part 217 in the following newspapers which are listed by Forest Service administrative unit. Where more than one newspaper is listed for any unit, the first newspaper listed is the principal newspaper that will be utilized for publishing the legal notices of decisions. Additional newspapers listed for a particular unit are those newspapers the Deciding Officer expects to use for the purposes of providing additional notice. The timeframe for appeal shall be based on the date of publication of the legal notice of the decision in the principal newspaper.

*Decisions by the Southern Regional Forester*

*Atlanta Journal*, published daily in Atlanta, GA for decisions affecting National Forest System lands in any of the 13 states of the Southern Region and the Commonwealth of Puerto Rico.

**National Forests in Alabama, Alabama**

*Forest Supervisor Decisions*

*Montgomery Advertiser*, published daily in Montgomery, Alabama

*District Rangers Decisions*

Bankhead Ranger District: *Northwest Alabamian*, published weekly (Monday & Thursday) in Haleyville, AL
Conecuh Ranger District: *The Andalusia Star*, published daily (Tuesday through Saturday) in Andalusia, AL
Oakmulgee Ranger District: *The Tuscaloosa News*, published daily in Tuscaloosa, AL
Shoal Creek Ranger District: *The Anniston Star*, published daily in Anniston, AL
Talladega Ranger District: *The Daily Home*, published daily in Talladega, AL
Tuskegee Ranger District: *Tuskegee News*, published weekly (Thursday) in Tuskegee, AL

**Caribbean National Forest, Puerto Rico**

*Forest Supervisor Decisions*

*El Nuevo Dia*, published daily in Spanish in San Juan, Puerto Rico; *San Juan Star*, published daily in San Juan, Puerto Rico

*District Ranger Decisions*

El Yunque Ranger District: *El Nuevo Dia*, published daily in Spanish in San Juan, Puerto Rico; *San Juan Star*, published daily in San Juan, Puerto Rico

**Chattahoochee-Oconee National Forest, Georgia**

*Forest Supervisor Decisions*

*The Times*, published daily in Gainesville, GA

*District Ranger Decisions*

Armuchee Ranger District: *Walker County Messenger*, published bi-weekly (Wednesday & Friday) in LaFayette, GA
Toccoa Ranger District: *Observer*, published weekly (Thursday) in Blue Ridge, GA; *New Herald*, published weekly (Thursday) in Blue Ridge, GA
Chestatee Ranger District: *Dahlonega Nugget*, published weekly (Thursday) in Dahlonega, GA; *The Times*, published daily in Gainesville, GA
Brasstown Ranger District: *North Georgia News*, published weekly (Tuesday) in Blairsville, GA; *Towns County Herald*, published weekly (Tuesday) in Hiawassee, GA
Tallulah Ranger District: *Clayton Tribune*, published weekly (Wednesday) in Clayton, GA
Chattooga Ranger District: *Tri-County Observer*, published weekly (Friday) in Clarksville, GA; *Toccoa Record*, published weekly (Thursday) in Toccoa, GA; *White County News*, published weekly (Wednesday) in Cleveland, GA
Cohutta Ranger District: *Chatsworth Times*, published weekly (Tuesday) in Chatsworth, GA
Oconee Ranger District: *Monticello News*, published weekly (Wednesday) in Monticello, GA

**Cherokee National Forest, Tennessee**

*Forest Supervisor Decisions*

*Knoxville News Sentinel*, published daily in Knoxville, TN

*District Ranger Decisions*

Ocoee Ranger District: *Polk County News*, published weekly (Wednesday) in Benton, TN
Hiwassee Ranger District: *Daily Post-Athenian*, published daily (Monday–Friday) in Athens, TN
Tellico Ranger District: *Monroe County Advocate*, published weekly (Thursday) in Sweetwater, TN
Nolichucky Ranger District: *Greeneville Sun*, published daily (Monday–Saturday) in Greeneville, TN
Unaka Ranger District: *Johnson City Press*, published daily in Johnson City, TN
Watauga Ranger District: *Elizabethton Star*, published daily (Sunday–Friday) in Elizabethton, TN

**Daniel Boone National Forest, Kentucky**

*Forest Supervisor Decisions*

*Lexington Herald-Leader*, published daily in Lexington, KY

*District Rangers Decisions*

Morehead Ranger District: *Morehead News*, published bi-weekly (Tuesday and Friday) in Morehead, KY
Stanton Ranger District: *The Clay City Times*, published weekly (Thursday) in Clay City, KY
Berea Ranger District: *Jackson County Sun*, published weekly (Thursday) in McKee, KY
London Ranger District: *The Sentinel-Echo*, published tri-weekly (Monday, Wednesday and Friday) in London, KY
Somerset Ranger District: *Commonwealth-Journal*, published daily (Sunday through Friday) in Somerset, KY
Stearns Ranger District: *McCreary County Record*, published weekly (Tuesday) in Whitley City, KY
Redbird Ranger District: *Manchester Enterprise*, published weekly (Thursday) in Manchester, KY

**National Forests in Florida, Florida**

*Forest Supervisor Decisions*

*The Tallahassee Democrat*, published daily in Tallahassee, FL

*District Rangers Decisions*

Aplachicola Ranger District: *The Weekly Journal*, published weekly (Wednesday) in Bristol, FL
Lake George Ranger District: *The Ocala Star Banner*, published daily in Ocala, FL
Osceola Ranger District: *The Lake City Reporter*, published daily (Monday-Saturday) in Lake City, FL
Seminole Ranger District: *The Daily Commercial*, published daily in Leesburg, FL
Wakulla Ranger District: *The Tallahassee Democrat*, published daily in Tallahassee, FL

**Francis Marion & Sumter National Forest, South Carolina**

*Forest Supervisor Decisions*

*The State*, published daily in Columbia, SC

*District Rangers Decisions*

Enoree Ranger District: *Newberry Observer*, published tri-weekly (Monday, Wednesday and Friday) Newberry, SC

Andrew Pickens Ranger District: *Seneca Journal and Tribune*, published bi-weekly (Wednesday and Friday) in Seneca, SC
Long Cane Ranger District: *Index-Journal*, published daily (Sunday through Friday) in Greenwood, SC
Wambaw Ranger District: *News and Courier*, published daily in Charleston, SC
Witherbee Ranger District: *Berkeley Independent*, published weekly (Wednesday) in Moncks Corner, SC
Tyger Ranger District: *The State*, published daily in Columbia, SC
Edgefield Ranger District: *Augusta Chronicle*, published daily in Augusta, GA

**George Washington National Forest, Virginia**

*Forest Supervisor Decisions*

*Daily News Record*, published daily in Harrisonburg, VA

*District Ranger Decisions*

Lee Ranger District: *Shenandoah Valley Herald*, published weekly (Wednesday) in Woodstock, VA
Warm Springs Ranger District: *The Recorder*, published weekly (Thursday) in Monterey, VA
Pedlar Ranger District: *News-Gazette*, published weekly (Wednesday) in Lexington, VA
James River Ranger District: *Virginian Review*, published daily in Covington, VA
Deerfield Ranger District: *Daily News Leader*, published daily in Staunton, VA
Dry River Ranger District: *Daily News Record*, published daily in Harrisonburg, VA

**Jefferson National Forest, Virginia**

*Forest Supervisor Decisions*

*Roanoke Times & World-News*, published daily in Roanoke, VA

*District Ranger Decisions*

Blacksburg Ranger District: *Roanoke Times & World-News*, published daily in Roanoke, VA
Glenwood Ranger District: *Roanoke Times & World-News*, published daily in Roanoke, VA
New Castle Ranger District: *Roanoke Times & World-News*, published daily in Roanoke, VA
Mount Rogers National Recreation Area: *Bristol Herald Courier*, published daily in Bristol, VA
Clinch Ranger District: *Bristol Herald Courier*, published daily in Bristol, VA
Wythe Ranger District: *Southwest Virginia Enterprise*, published bi-weekly (Wednesday and Saturday) in Wytheville, VA

**Kisatchie National Forest, Louisiana**

*Forest Supervisor Decisions*

*Alexandria Daily Town Talk*, published daily in Alexandria, LA; *Colfax Chronicle*, published weekly (Wednesday) in Colfax, LA; *Leesville Leader*, published daily in Leesville, LA; *Winn Parish Enterprise*, published weekly (Wednesday) in Winfield, LA; *Natchitoches Times*, published bi-weekly (Sunday and Wednesday) in Natchitoches, LA; *Minden Press Herald*, published daily in Minden, LA; *Homer Guardian Journal*, published weekly (Wednesday) in Homer, LA

*District Ranger Decisions*

Caney Ranger District: *Minden Press Herald*, published daily in Minden, LA; *Homer Guardian Journal*, published weekly (Wednesday) in Homer, LA
Catahoula Ranger District: *Alexandria Daily Town Talk*, published daily in Alexandria, LA; *Colfax Chronicle*, published weekly (Wednesday) in Colfax, LA
Evangeline Ranger District: *Alexandria Daily Town Talk*, published daily in Alexandria, LA
Kisatchie Ranger District: *Natchitoches Times*, published bi-weekly (Sunday and Wednesday) in Natchitoches, LA
Vernon Ranger District: *Leesville Leader*, published daily in Leesville, LA
Winn Ranger District: *Winn Parish Enterprise*, published weekly (Wednesday) in Winnfield, LA

**National Forests in Mississippi, Mississippi**

*Forest Supervisor Decisions*

*Clarion-Ledger*, published daily in Jackson, MS

*District Ranger Decisions*

Bienville Ranger District: *Clarion-Ledger*, published daily in Jackson, MS
Biloxi Ranger District: *Clarion-Ledger*, published daily in Jackson, MS
Black Creek Ranger District: *Clarion-Ledger*, published daily in Jackson, MS
Bude Ranger District: *Clarion-Ledger*, published daily in Jackson, MS
Chickasaway Ranger District: *Clarion-Ledger*, published daily in Jackson, MS
Delta Ranger District: *Clarion-Ledger*, published daily in Jackson, MS
Holly Springs Ranger District: *Clarion-Ledger*, published daily in Jackson, MS
Homochitto Ranger District: *Clarion-Ledger*, published daily in Jackson, MS
Strong River Ranger District: *Clarion-Ledger*, published daily in Jackson, MS
Tombigbee Ranger District: *Clarion-Ledger*, published daily in Jackson, MS
Ashe-Erambert Project: *Clarion-Ledger*, published daily in Jackson, MS

**National Forests in North Carolina, North Carolina**

*Forest Supervisor Decisions*

*The Asheville Citizen-Times*, published daily in Asheville, NC

*District Ranger Decisions*

Cheoah Ranger District: *Graham Star*, published weekly (Thursday) in Robbinsville, NC
Croatan Ranger District: *The Sun Journal*, published weekly (Sunday through Friday) in New Bern, NC; *Carteret County New-Times*, published tri-weekly (Sunday, Wednesday and Friday) in Morehead City, NC
French Broad District: *The News Record*, published weekly (Thursday) in Marshall, NC; *The Mountaineer, Inc.*, published tri-weekly (Monday, Wednesday and Friday) in Waynesville, NC
Grandfather District: *McDowell News*, published daily in Marion, NC; *News Herald*, published daily in Morganton, NC; *Lenoir News Topic*, published daily in Lenoir, NC; *Avery Journal*, published weekly (Thursday) in Newland, NC; *Watauga Democrat*, published tri-weekly (Monday, Wednesday and Friday) in Boone, NC
Highlands Ranger District: *The Highlander*, published weekly (May–Oct Tues & Fri; Oct–April Tues only) in Highlands, NC; *Cashiers Crossroads Chronicle*, published weekly (Wednesday) in Cashiers, NC; *The Franklin Press*, published tri-weekly (Monday, Wednesday and Friday) in Franklin, NC; *The Sylva Herald*, published weekly (Thursday) in Sylva, NC; *The Transylvania Times*, published bi-weekly (Monday and Thursday) in Brevard, NC
Pisgah Ranger District: *The Transylvania Times*, published bi-weekly (Monday and Thursday) in Brevard, NC; *Times-News*, published daily in Hendersonville, NC; *The Mountaineer*, published tri-weekly (Monday, Wednesday, Friday) in Waynesville, NC; *The Asheville Citizen-Times*, published daily in Asheville, NC
Toecane Ranger District: *The Asheville Citizen-Times*, published daily in Asheville, NC; *The Yancey Journal*,

published weekly (Thursday) in Burnsville, NC

Tusquitee Ranger District: *Cherokee Scout*, published bi-weekly (Tuesday and Friday) in Murphy, NC; *Clay County Progress*, published weekly (Thursday) in Hayesville, NC; *Andrews Journal*, published weekly (Wednesday) in Andrews, NC

Uwharrie Ranger District: *Montgomery Herald*, published weekly (Wednesday) in Troy, NC

Wayah Ranger District: *The Franklin Press*, published tri-weekly (Monday, Wednesday and Friday) in Franklin, NC; *Smoky Mountain Times*, published weekly (Thursday) in Bryson City, NC; *Sylva Herald*, published weekly (Thursday) in Sylva, NC

**Ouachita National Forest, Arkansas, Oklahoma**

*Forest Supervisor Decisions*

*Arkansas Democrat*, published daily in Little Rock, AR

*District Ranger Decisions*

Caddo Ranger District: *Arkansas Democrat*, published daily in Little Rock, AR

Cold Springs Ranger District: *Arkansas Democrat*, published daily in Little Rock, AR

Fourche Ranger District: *Arkansas Democrat*, published daily in Little Rock, AR

Jessieville Ranger District: *Arkansas Democrat*, published daily in Little Rock, AR

Mena Ranger District: *Arkansas Democrat*, published daily in Little Rock, AR

Oden Ranger District: *Arkansas Democrat*, published daily in Little Rock, AR

Poteau Ranger District: *Arkansas Democrat*, published daily in Little Rock, AR

Winona Ranger District: *Arkansas Democrat*, published daily in Little Rock, AR

Womble Ranger District: *Arkansas Democrat*, published daily in Little Rock, AR

Choctaw Ranger District: *The Daily Oklahoman*, published daily in Oklahoma City, OK

Kiamichi Ranger District: *The Daily Oklahoman*, published daily in Oklahoma City, OK

Tiak Ranger District: *The Daily Oklahoman*, published daily in Oklahoma City, OK

**Ozark-St. Francis National Forest: Arkansas**

*Forest Supervisor Decisions*

*Courier-Democrat*, published daily (Sunday through Friday) in Russellville, AR

*District Ranger Decisions*

Sylamore Ranger District: *Stone County Leader*, published weekly (Tuesday) in Mountain View, AR

Buffalo Ranger District: *Newton County Times*, published weekly (Wednesday) in Jasper, AR

Bayou Ranger District: *Courier-Democrat*, published daily (Sunday through Friday) in Russellville, AR

Pleasant Hill Ranger District: *Johnson County Graphic*, published weekly (Wednesday) in Clarksville, AR

Boston Mountain Ranger District: *Southwest Times Record*, published daily in Fort Smith, AR

Magazine Ranger District: *Southwest Times Record*, published daily in Fort Smith, AR

St. Francis Ranger District: *The Daily World*, published daily (Sunday through Friday) in Helena, AR

**National Forests in Texas, Texas**

*Forest Supervisor Decisions*

*The Lufkin Daily News*, published daily in Lufkin, TX

*District Ranger Decisions*

San Jacinto Ranger District: *The Houston Post*, published daily in Houston, TX

Neches Ranger District: *The Lufkin Daily News*, published daily in Lufkin, TX

Raven Ranger District: *The Courier*, published daily in Conroe, TX

Tenaha Ranger District: *The Lufkin Daily News*, published daily in Lufkin, TX

Trinity Ranger District: *The Lufkin Daily News*, published daily in Lufkin, TX

Yellowpine Ranger District: *The Beaumont Enterprise*, published daily in Beaumont, TX

Caddo-LBJ Ranger District: Caddo-LBJ National Grassland: *Denton Record-Chronicle*, published daily (Sunday thru Friday) in Denton, TX

Dated: March 30, 1990.

**R.B. Erickson,**

*Deputy Regional Forester.*

[FR Doc. 90-7820 Filed 4-4-90; 8:45 am]

BILLING CODE 3410-11-M

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[Docket 13-90]**

### Foreign-Trade Zone 50, Long Beach, CA; Application for Subzone, National RV Motorhome Plant, Perris, CA

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Board of Harbor Commissioners of the City of Long Beach, California, grantee of FTZ 50, requesting special-purpose subzone status for the motorhome/recreational vehicle assembly plant of National RV, Inc., in Perris, California. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on March 26, 1990.

The National RV plant (40 acres) is located at Perris Boulevard and Sinclair Street in Perris, California, some 20 miles east of Riverside. The facility employs 230 persons and is used to produce Class A motorhomes and micro-mini recreational vehicles (RV). The primary foreign-sourced component for the RV is the pickup truck cab/chassis. Some 10 percent of the remaining components for the RV's and some 12 percent of the components for the motorhomes are foreign sourced, including electronic components, switches, mechanical components, windshields, plywood, panelling, fiberglass, hardware, and fixtures. Some 4 percent of the vehicles are currently exported.

Zone procedures would exempt National RV from Customs duty payments on the foreign components used in vehicles produced for export. On its domestic sales the company would be able to choose the lower finished vehicle duty rate (2.5 percent) rather than the rate on components. The pickup truck cab/chassis rate is 25 percent, and the average rate for the remaining foreign components used for RV's is 2.8 percent and for motorhomes it is 3.4 percent. The application indicates that zone savings will help improve National RV's competitiveness in foreign markets (exports are expected to increase to 10% of production). The request for the subzone is also based on the fact that one of National RV's domestic competitors, Winnebago Industries, Inc., presently operates under subzone procedures at its assembly plant in Forest City, Iowa (FTZ Subzone 107A, 49 FR 35971, 9/13/84).

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; John Heinrich, District Director, U.S. Customs Service, Pacific Region, 300 South Ferry Street, Terminal Island, San Pedro, California 90731; and Colonel Charles S. Thomas, District Engineer, U.S. Army Engineer District Los Angeles, P.O. Box 2711, Los Angeles, California 90053–2325.

Comments concerning the proposed subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before May 4, 1990.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

U.S. Department of Commerce District Office, 11777 San Vincente Boulevard, Room 800, Los Angeles, California 90049.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Pennsylvania Avenue, NW., Room 2835, Washington, DC 20230.

Dated: March 28, 1990.

**John J. Da Ponte, Jr.,**

*Executive Secretary.*

[FR Doc. 90–7775 Filed 4–4–90; 8:45 am]

BILLING CODE 3510-DS-M

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**[Order No. 468]**

## Approval for Expansion of Foreign-Trade Zone 94, Laredo, TX

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR part 400), the Foreign-Trade Zones Board (the Board) adopts the following Resolution and Order:

Whereas, the City of Laredo, Texas, grantee of Foreign-Trade Zone No. 94, has applied to the Board for authority to expand its general-purpose zone at the Laredo International Airport and the Killam Industrial Park in Webb County, Texas, within the Laredo Customs port of entry;

Whereas, the application was accepted for filing on April 28, 1989, and notice inviting public comment was given in the **Federal Register** on May 16, 1989 (Docket 9–89, 54 FR 21089);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to improve and expand zone services in the Laredo area; and

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

*Now, therefore, the Board hereby orders:*

That the grantee is authorized to expand its zone in accordance with the application filed April 28, 1989, subject to a 500-acre activation limit at each of the two expansion sites. The grant does not include authority for manufacturing operations, and the Grantee shall notify the Board for approval prior to the commencement of any manufacturing or assembly operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, DC, this 26th day of March 1990.

**Lisa B. Barry,**

*Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.*

Attest:

**John J. Da Ponte, Jr.,**

*Executive Secretary.*

[FR Doc. 90–7781 Filed 4–4–90; 8:45 am]

BILLING CODE 3510-DS-M

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## International Trade Administration

**[A–201–601]**

## Certain Fresh Cut Flowers From Mexico; Final Results of Antidumping Duty Administrative Review

**AGENCY:** International Trade Administration/Import Administration, Department of Commerce.

**ACTION:** Notice of final results of antidumping duty administrative review.

**SUMMARY:** In response to requests by the petitioner and eight respondents, the Department of Commerce has conducted an administrative review of the antidumping duty order on certain fresh cut flowers from Mexico. The review covers eight producers and/or exporters of this merchandise during the period November 3, 1986 through March 31, 1988. The review indicates the existence of dumping margins for certain firms during the period.

On July 13, 1989, the Department preliminarily determined to assess antidumping duties equal to the calculated difference between United States price and foriegn market value.

We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, we changed the final results from those presented in our preliminary results of review for one of the eight manufacturers.

**EFFECTIVE DATE:** April 5, 1990.

**FOR FURTHER INFORMATION CONTACT:** Zev Primor or Melissa Skinner, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–1130.

**SUPPLEMENTARY INFORMATION:**

### Background

On April 23, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 13491) the antidumping duty order on certain fresh cut flowers from Mexico. The Floral Trade Council ("the Petitioner") and eight respondents requested that we conduct an administrative review in accordance with § 353.53a(a) of the Commerce Regulations (1988). We published a notice of initiation on May 23, 1988 (53 FR 18324). On July 13, 1989, the Department published in the **Federal Register** (54 FR 25595) the preliminary results of its administrative review. We have now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Act").

### Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule ("HTS"), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by the review are shipments of certain fresh cut flowers from Mexico. During the review period such merchandise was classifiable under item 192.2110 (pompom chrysanthemums), item 192.2120 (standard chrysanthemums) and item

192.2130 (standard carnations) of the Tariff Schedules of the United states Annotated. This merchandise is currently classifiable under HTS item 0603.10.7010 (pompom chrysanthemums), item 0603.10.7020 (standard chrysanthemums) and item 0603.10.7030 (standard carnations). The HTS item number is provided for convenience and Custom purposes. The written description remains dispositive. The review covers eight producers and/or exporters of certain fresh cut flowers from Mexico to the United States and the period November 3, 1986 through March 31, 1988.

**Analysis of Comments Received**

We gave interested parties an opportunity to comment on the preliminary results. At the request of the petitioner and respondents, we held a hearing on September 19, 1989. We received comments from the petitioner and six respondents (Florex, Rancho Mision el Descanso, Tzitzic Tareta, Las Flores de Mexico, Visaflor and Rancho Alisitos).

**Petitioner's Comments**

*Comment 1*: The petitioner claims that the Department's use of weight-averaged United States prices is contrary to the congressional intent of section 777A of the Trade Act of 1930, as amended (19 U.S.C. 1677f–1) (1988) ("the Act"). The petitioner contends that when Congress enacted section 777A it did not intend a significant departure from the agency's practice of using transaction-specific United States prices. Instead, Congress intended the Department's use of averaging techniques to be limited to cases involving a significant number of sales or adjustments.

*Department's Position*: We disagree. Although section 777A of the Act provides the Department with authority to utilize averaging techniques where extremely burdensome circumstances exist, neither the statutory language nor the legislative history expressly restricts the use of averaging to those situations.

The Court of Appeals for the Federal Circuit has stated "One of the goals of the statute is to guarantee that the administering authority makes the fair value comparison on a fair basis—comparing apples with apples." *Smith-Corona Group, Consumers Prod. Div., SCM Corp.* v. *United States*, 713 F.2d 1568, 1578 (Fed. Cir. 1983). Commerce's obligation to make comparisons on a "fair" basis exists in its administrative reviews as well as in its investigations. Given the statutory goal to obtain fair results and given the broad discretion accorded Commerce in fulfilling that goal, we believe that averaging United States prices is necessary in this case to avoid a distorted dumping margin.

This review covers imports from several Mexican flower growers. Generally, these growers are unable to control when their flowers are sold. Unlike sellers of non-perishable products, flower sellers cannot withhold merchandise from the market or store it. Once brought to the market, they can either accept the market price or destroy the merchandise. Given these circumstances, the Department must take into account the price distortions resulting from the perishable nature of the merchandise. We believe that averaging of the United States price accomplishes this purpose.

We note that the Department has used its discretion in the past to employ non-traditional methodology when faced with unique circumstances, such as a perishable product. For example, in Certain Fresh Winter Vegetables from Mexico; Final Antidumping Duty Determination of Sales of Not Less Than Fair Value, 45 FR 20512 (1980), the Department used averaging because of the perishability of the product, among other reasons. This decision was affirmed by the Court of International Trade in *Southwest Florida Winter Vegetable Growers Ass'n* v. *United States*, 7 CIT 99, 584 F. Supp. 10 (1984). The court noted in that decision that Commerce has "broad flexibility" in administering the antidumping law, which it employed "with reasonable basis in fact reflecting the unique characteristic of perishability in the produce industry." 7 CIT at 107–108. *See also* Fall-Harvested Round White Potatoes from Canada; Final Determination of Sales at Less Than Fair Value, 48 Fed. Reg. 51669 (November 10, 1983) (where ITA modified its "traditional comparison methodology" to accommodate "highly variable" pricing associated with the perishable product under investigation).

Additionally, it has been the Department's practice to adjust its 10% sales below cost rule in cases involving perishable products where producers lack ability to control output and prices. *See* Fall-Harvested Round White Potatoes from Canada, Final Determination of Sales at Less Than Fair Value, 48 FR 51669, 51672 (Comment 5) (November 10, 1983); Certain Fresh Winter Vegetables from Mexico, Final Determination of Sales at Less Than Fair Value, 45 FR 20512, 20515 (March 28, 1980). *See also* Red Raspberries from Canada, Final Results of Antidumping Duty Administrative Review, 53 FR 20150, 20151 (Comment 9—explaining the Department's practice of using a 50% sales below cost rule, as opposed to a 10% rule, when producers lack ability to control the sale of their output) (June 2, 1988).

Moreover, in the underlying antidumping duty investigation of fresh cut flowers from Mexico, the Department used a monthly average United States price to take into account the perishable character of the product as well as the resulting price fluctuations. The Department believed that averaging United States price would contribute to "a more fair and more representative" fair value comparison. As stated in the final determination "this comparison yields the most accurate basis for determining whether sales are less than fair value and constitute the most representative analysis of trading practices which involve perishable products." Final Determination of Sales at Less Than Fair Value; Certain Fresh Flowers From Mexico, 52 FR 6361, 6363 (March 3, 1987). The Department's use of an averaged United States price to account for perishability and highly variable pricing was upheld by the Court of International Trade in *Floral Trade Council* v. *United States*, 11 CIT _____, 704 F. Supp. 237 (1988). As stated in that decision, "As in Winter Vegetables," perishability and resulting price fluctuation is one of the reasons for employing a non-traditional methodology such as sampling or averaging [of the United States price]." 704 F. Supp. at 238.

*Comment 2:* The petitioner contends that monthly averaging of United States price distorts the preliminary results and that a price-to-price comparsion or a weekly averaging of United States prices is more appropriate to account for flower perishability.

*Department's Position:* We disagree. The Department believes that monthly averaging is a reasonable and representative method to account for a perishable product, such as flowers, and in this case represents a balance between petitioner's request and the potential for prejudice to respondents. We believe that averaging United States prices over a period of one month takes better account of distress and non-distress sales than either a price-to-price comparison or weekly averaging. Monthly averaging ensures that both distress and non-distress sales are included in the measure of the United States price. Moreover, the petitioner has failed to demonstrate that the use of monthly averaging results in a margin is not representative of the transactions under review.

*Comment 3:* The petitioner contends that the Department did not take into account the physical differences between flowers sold in the home market and in the United States when comparing them for the purpose of determining sales at less than fair value. More specifically, the petitioner claims that the Department did not account for the quality grades by which many flowers are classified but rather used a broader product category, encompassing several different grades. Since different grades of flowers are sold at different prices, petitioner argues that the Department's methodology was erroneous.

*Department's Position:* We disagree. The Department based merchandise comparison on single flower grade. Some respondents provided the Department with data on ostensibly different grades of flowers, but the Department found that respondents' grading systems were erroneous. In all instances, these respondents were producing only one grade of flower in both markets. Thus, the Department did not mix different grades of flowers when comparing sales between the two markets.

*Comment 4:* The petitioner claims that the cost data provided by Rancho Alisitos suffers from a number of deficiencies. Specifically, petitioner argues it is inappropriate for Rancho Alisitos: (1) To report costs already converted to U.S. dollars, therefore depriving the Department of the responsibility of proper exchange rate conversion; (2) to convert peso expenses based on the monthly exchange rate in effect at the time when the flowers were picked, not when the costs were incurred. Furthermore, the petitioner claims it is inappropriate for the Department to adjust for hyperinflation without clearly knowing how Rancho Alisitos' production costs, including amortization, were allocated.

*Department's Position:* We disagree. In calculating the constructed value, we converted all costs provided in U.S. dollars into Mexican pesos. We derived an average monthly constructed value, adjusted for inflation, and converted it back into U.S. dollars (at official exchanged rates), therefore, not depriving the Department of the responsibility of proper exchange rate conversion. The respondent clearly demonstrated that costs were converted using exchange rates in effect at the time the costs were incurred and not at the time the flowers were picked.

Regarding the adjustment for hyperinflation, we believe that Rancho Alisitos' original questionnaire response (August 22, 1988, p. 9–10) adequately discusses how its accounting system is structured and how its production costs are allocated. Furthermore, amortization was satisfactorily addressed in response to the Department's deficiency letter (November 7, 1988). We note that the petitioner had the opportunity to comment on the questionnaire responses before the supplementary questionnaires were sent but did not do so. We believe that the respondent supplied an adequate set of information in order to make a final determination.

*Comment 5:* The petitioner contends that the Department should reject Rancho Daisy's entire cost of production submission and use best information otherwise available. The petitioner claims that Rancho Daisy's submission, on its face, is implausible because the data indicates much lower per unit costs that those incurred by either Rancho Alisitos or Las Flores de Mexico.

*Department's Position:* We disagree. In this case the issue of Rancho Daisy costs of production is moot, since the respondent possessed a viable home market allowing a price-to-price comparison rather than the constructed value approach.

*Comment 6:* The petitioner claims that Rancho Daisy's reporting of home market sales in U.S. dollars is very unusual given the level of inflation in Mexico and given the fact that no other Mexican grower, subject to the annual review, has claimed that home market sales are made in U.S. dollars. Furthermore, the petitioner contends that if Rancho Daisy's home market sales were made in U.S. dollars, they were not made in the ordinary course of trade.

*Department's Position:* We disagree. The petitioner has not provided any evidence that respondent's home market sales of standard carnations were not made in the ordinary course of trade or that any other terms of respondent's home market sales would have been different if they had been made in Mexican pesos. The respondent provided accounting records indicating that home market sales were invoiced in U.S. dollars. Given the respondent's proximity to the U.S.-Mexico border, and given that all of respondent's sales were U.S. dollar denominated, we determine that Rancho Daisy's home market sales were made in the ordinary course of trade.

*Comment 7:* The petitioner contends that given Tzitzic Tareta's inability to provide specific payment dates, the Department should not use the average number of days between the shipment and payment in calculating Tzitzic Tareta's home market and U.S. market credit expenses, but should rely instead on best information available.

*Department's Position:* We disagree. Although Tzitzic Tareta was unable to provide us with precise dates of payments, it supplied us with the information on the average number of days between the shipment and payment. This information closely resembled the practice of the other Mexican flower companies and was accepted by the Department as reasonable.

*Comment 8:* The petitioner claims that Visaflor sells only culls in the home market and that culls cannot be reasonably compared to export quality flowers. The petitioner argues that the flowers Visaflor sells in the home market are culls because they are cut at a slightly later stage (i.e., in fuller bloom) than flowers cut for export to the U.S. Additionally, the petitioner compares Visaflor's home market prices to another company's prices for culls and argues that since Visaflor's home market prices are lower, Visaflor also must be selling culls.

*Department's Position:* We disagree. The petitioner overlooks the industry's standard practice of cutting flowers destined for the U.S. market slightly earlier, leaving the bud less open and better suited for transportation to, and storage in, the United States. Thus, it is inappropriate to define Visaflor's flowers as culls simply because they are in fuller bloom at the time of cutting than the flowers prepared for export to the United States. Petitioner's comparison of two different companies' prices does not constitute evidence of cull transactions in the home market since there are other factors that could account for lower prices (e.g., lower production costs or higher efficiencies).

*Comment 9:* The petitioner contends that respondents provided inadequate public responses, frustrating the participation of the domestic industry's experts in the annual administrative review. Therefore, the petitioner urges the Department to reject respondents' responses and use best information available.

*Department's Position:* The Department determined that the public responses were adequate. Additionally the petitioner should have raised this concern at the time the public versions were served on the petitioner and not almost one year later.

**Respondents' Comments**

*Comment 1:* Las Flores de Mexico, Rancho Mision el Descanso, Tzitzic Tareta and Visaflor allege that the Department failed to fully disclose all

information with regard to its preliminary determination.

*Department's Position:* We disagree. At disclosure, we made available to respondents all materials and information relied upon in making our preliminary determation. Failure on the part of the respondents to express their needs for additional or more detailed information during the disclosure meeting or shortly thereafter and yet bring up that issue one month later in the pre-hearing brief is considered to be untimely. Nevertheless, in order for the interested parties to fully prepare for the hearing, the Department provided them with the additional informaiton as requested.

*Comment 2:* Counsel to Florex, Las Flores de Mexico, Rancho Mision el Descanso, Tzitzic Tareta and Visaflor questions the application of the "all other" rate, established during the original less than fair value investigation, to companies that did not request an annual review and demands that the rate should be revised on the basis of new margins established in the current administrative review.

*Department's Position:* We disagree. Although the "all other" rate does not affect these five firms, we note that the application of the "all other" rate to companies that did not request an administrative review has been the Department's long-standing practice. This practice has been upheld by the Court of International Trade in *Serampore Industries Pvt. Ltd* v. *United States* 11 CIT _____, 696 F. Supp. 665, 670 (1988).

*Comment 3:* Florex contends that the Department failed to consider a level of trade adjustment in calculating its dumping margin since home market sales are made to retailers while U.S. sales are made on consignment to importers/brokers who sell to wholesalers.

*Department's Position:* We disagree. Aside from claiming that flowers are sold to two different types of customers in the two markets, the respondent did not provide any evidence indicating that the difference in prices is attributable to different levels of trade. Simply mentioning 20 to 30 percent difference between home market retail and United States wholesale prices does not constitute sufficient evidence; such a difference could be a result of a number of factors, including dumping in the U.S. market.

*Comment 4:* Florex claims that a credit expense adjustment should have been applied to all home market sales, as it was for all United States sales, and not only to those home market sales involving credit-worthy customers. Florex argues that if the Department deducts credit costs from every U.S. sale, it must do the same for every home market sale as well.

*Department's Position:* We disagree. The fact that the Department determined that all U.S. sales incurred actual credit cost is irrelevant to determining home market credit costs. Additionally, respondent's claim is contrary to the facts submitted in its response. In its August 23, 1988 response, the respondent indicated that "Sales terms are net-30 days, except to unworthy credit customers where it is cash on delivery." The respondent supplied a list specifying which customers enjoy credit and which are required to pay cash on delivery. Credit expenses, which were directly related to sales, were deducted from those home market sales involving customers to whom Florex actually extended credit. Where no such expense was incurred for cash paying customers, no adjustment was made.

*Comment 5:* Florex, Las Flores de Mexico and Tzitzic Tareta contend that the Department incorrectly assigned zero values to negative margins.

*Department's Position:* We disagree. The Department's practice of assigning zero value to negative margins (negative margins are the amount by which the United States price exceeds the home market price) has been a long-standing policy affirmed by the courts. In *Serampore Industries Pvt. Ltd.* v. *United States* 11 CIT _____, 696 F. Supp. 665, 670 (1988), the Court of International Trade held as follows:

> Commerce may treat sales to the United States market made at or above the prices charged in the exporter's home market as having a zero percent margin. The practice of considering negative margins as zero ensures that sales made at less than fair value on a portion of a company's product line to the United States market are not negated by more profitable sales.

*Comment 6:* Las Flores de Mexico ("Las Flores") contends that the Department erred by not making a deduction from the constructed value for home market indirect selling expenses when it made such a deduction from the United States price.

*Department's Position:* We disagree. The fact that the Department deducted indirect selling expenses from the United States price does not require that similar expenses be deducted from the home market sales unless such expenses are substantiated. The respondent has had a number of opportunities to report home market indirect selling expenses, but failed to do so. A review of Las Flores' responses to the original and two supplemental questionnaires reveals that Las Flores provided specific costs related only to labor, materials, overhead and miscellaneous expenses. No information regarding the amount of home market indirect selling expenses was provided. Respondent's suggestion that "it is possible for the Department of Commerce to make allocation of a *certain* portion of the constructed value as indirect selling expenses" (emphasis added) does not constitute sufficient information to allow for such a deduction.

*Comment 7:* Tzitzic Tareta contends that the Department incorrectly calculated its dumping margin. The respondent claims that its proposed calculations, based on its understanding of the Department's methodology, result in no margin, thus suggesting that the Department erred in determining respondent's final dumping margin.

*Department's Position:* We disagree. The respondent provided no description of specific errors in the Department's margin calculation methodology. Instead, in exhibit A to the pre-hearing brief (August 18, 1989), the respondent, in very general terms, presented methodology which is inconsistent with well established Department practices. In its example, the respondent fails to deduct brokerage, handling and freight expenses from the United States price. Additionally, it adds U.S. credit expenses to home market price rather than deducting them from the U.S. price. The respondent also calculates foreign market value as including U.S. indirect selling expenses. Finally, the respondent uses a data set of unknown origin which is different from the data set submitted for the review.

*Comment 8:* Florex, Las Flores de Mexico, Rancho Mision el Descanso, Tzitzic Tareta and Visaflor claim that the Department did not adequately account for the perishable nature of cut flowers and should allow additional adjustments due to sales of distressed flowers.

*Department's Position:* We disagree. See the Department's response to petitioner's comment #2.

*Comment 9:* Rancho Alisitos contends that the cost of inland freight should have been deducted from its constructed value since it was deducted from the United States price.

*Department's Position:* We agree. The respondent's inclusion of the inland freight cost in its constructed value computation was unnecessary. Therefore, the Department has deducted inland freight from the constructed value.

*Comment 10:* Rancho Alisitos contends that the foreign market value

for purchase price comparisons was calculated incorrectly. Rancho Alisitos questions the Department's calculation of two sets of foreign market values (one for exporter's sale price transactions and one for purchase price transactions) claiming that these sets of values should be identical prior to comparison with United States prices.

*Department's Position:* We disagree. The respondent has overlooked the fact that when calculating foreign market values, circumstances of sale adjustments for credit expenses are done differently in purchase price and exporter's sales price situations.

*Comment 11:* Rancho Alisitos contends that the constructed value for March 1988 is grossly exaggerated by the application of the hyperinflationary economy methodology. Because of this alleged distortion, the respondent requests that the Department use its actual costs for that month.

*Department's Position:* We disagree. The respondent's conclusion that the Department's methodology to adjust monthly production costs for inflation "produced a serious distortion" for the month of March 1988 is based on the fact that the actual costs incurred in March 1988 are lower than the monthly average cost adjusted for inflation. Firstly, actual costs will always vary from average costs. Secondly, we note that the March 1988 actual cost is over 30 percent lower than the actual cost reported for February and almost 50 percent lower than the actual cost reported for January 1988. The difference between the average monthly cost, adjusted for inflation, and the cost reported for March 1988, simply reflects the variance in actual monthly costs.

*Comment 12:* Rancho Alisitos claims that because it did not incur any interest costs during the review period, no adjustment should be made for credit expenses. Additionally, Rancho Alisitos contends that the United States price adjustment for credit expense is excessive.

*Department's Position:* We disagree. Under the Department of Commerce regulations and practice, we make adjustments for differences in credit and interest costs which result from differences between markets in terms of payment and interest rates. In this instance, a credit expense adjustment was made, because Rancho Alisitos reported time differences between the date of sale and the date of payment in the U.S. market thus incurring an imputed credit expense. The interest rates used to calculate credit expenses are based on annual rates and not, as the respondent incorrectly assumes, on monthly rates.

*Comment 13:* Rancho Alisitos contends that according to the preliminary notice of results for the first annual review, the Department should have used a single monthly average of both exporter's sale price (ESP) and purchase price (PP) transactions prior to comparison with the foreign market value.

*Department's Position:* We disagree. The respondent wrongly interprets the preliminary notice's language by assuming that the Department intended to use a single monthly average of United States prices for both ESP and PP transactions. The preliminary notice states that "All United States prices were weight-averaged on a monthly basis in order to account for the perishability of the product." The notice, however, does not say that United States prices in the ESP and PP situations were averaged together, nor was it our intention to average the gross selling prices of sales to different customers and through different channels of trade, *i.e,* direct and consignment. Indeed, such a methodology would produce incorrect results because of the different requirements for calculating ESP and PP. Since the amounts of the adjustments are also different for each customer, and the expenses on which the adjustments are based are presumed to affect the selling price, the resulting United States prices would be neither ESP nor PP, but some amalgam of both. Furthermore, since the calculation of the foreign market value also differs depending on whether the United States price is ESP or PP, it would not be possible to isolate the adjustments appropriate to those foreign market values, if the calculation of ESP and PP were mixed. Finally, averaging the United States prices would make it impossible to issue assessment instructions to the Customs Service which have to be specific to each importer. If the prices were averaged, some importers would be paying liquidated dumping duties due to margins found on transactions with other importers. For all these reasons, therefore, averaging United States prices is inappropriate.

## Final Results of the Review

As a result of our review of the comments received, we have determined that the following margins exist for the period November 3, 1986 through March 31, 1988:

| Manufacturer/exporter | Margin (percent) |
|---|---|
| Florex | 14.78 |
| Las Flores de Mexico | 25.41 |
| Rancho Alisitos | 8.06 |
| Rancho Daisy | 0.00 |
| Rancho Mision el Descanso | 1.93 |
| Rancho del Pacifico | 0.00 |
| Tzitzic Tareta | 9.95 |
| Visaflor | 1.39 |

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions on each exporter directly to the Customs Service. Individual differences between the United States price and the foreign market value may vary from percentages stated above.

Furthermore, as provided by section 751(a)(1) of the Act, a cash deposit of estimated antidumping duties based on the above margins shall be required on shipments of certain fresh cut flowers from Mexico by the companies under review.

For any future entries of this merchandise from a new producer and/or exporter, not covered in this review or in the original investigation, whose first shipments occurred after March 31, 1988, and who is unrelated to the reviewed firms or any firm which was subject to the original investigation, a cash deposit of 25.41 percent shall be required.

These deposit requirements are effective for all shipments of certain fresh cut flowers from Mexico entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review and shall remain in effect until the publication of final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22 of Commerce's antidumping regulations published at 19 CFR 353.22 (1989).

Dated: March 27, 1990.

**Lisa B. Barry,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 90-7776 Filed 4-4-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-087]

## Portable Electric Typewriters From Japan; Court of International Trade Decision Concerning the Scope of the Antidumping Duty Order

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

**ACTION:** Notice of Court of International Trade decision concerning the scope of the antidumping duty order.

**SUMMARY:** On March 18 and November 23, 1988, in accordance with orders of the Court of International Trade ("CIT"), the Department submitted to the CIT final results of a revised determination with respect to the scope of the antidumping duty order. In the revised determination we determined that automatic portable electric typewriters and portable electric typewriters incorporating a calculating mechanism are within the scope of the antidumping duty order. The CIT affirmed this determination on February 3, 1989. The CIT's order was appealed to the Court of Appeals for the Federal Circuit ("CAFC").

On March 19, 1990, the CAFC, in *The Timken Company* v. *United States*, issued a final ruling that the Department is required to publish notice of a court decision not in harmony with Commerce's determination within ten days of such decision, thereby suspending liquidation of the merchandise in question. In accordance with this decision, we are hereby suspending liquidation of all unliquidated entries of automatic portable electric typewriters and portable electric typewriters incorporating a calculating mechanism, entered, or withdrawn from warehouse, for consumption on or after February 3, 1989.

**EFFECTIVE DATE:** April 5, 1990.

**FOR FURTHER INFORMATION CONTACT:** Dolores Ricci or Maureen A. Flannery, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923.

**SUPPLEMENTARY INFORMATION:**

### Background

On December 31, 1987, the Court of International Trade ("CIT") in *Smith Corona Corporation* v. *United States* (Slip Op. 87-145) remanded to the Department of Commerce ("the Department") for redetermination the scope of the "Antidumping Duty Order on Portable Electric Typewriters from Japan," 45 FR 30618 (May 9, 1980). The CIT ordered the Department to reconsider its scope determination made in "Portable Electric Typewriters from Japan; Final Results of Antidumping Administrative Review", 52 FR 1504 (Jan. 14, 1987), and publish a revised determination as to whether automatic portable electric typewriters, those incorporating text memory, or portable electric typewriters incorporating a calculating mechanism are within the scope of the May 9, 1980 antidumping duty order.

On March 18, 1988, the Department filed a revised scope determination with the Court, in which it determined that non-automatic portable electric typewriters incorporating a calculating mechanism are within the scope of the May 9, 1980 antidumping duty order and that automatic portable electric typewriters are not within the scope of that order.

After reviewing the Department's revised scope determination, the CIT, on September 20, 1988, in *Smith Corona Corporation* v. *United States* (Slip Op. 88-127), affirmed the Department's decision that non-automatic portable electric typewriters incorporating a calculating mechanism are included within the scope of the antidumping duty order, but reversed the Department's determination that automatic portable electric typewriters are not within the scope of the order. On November 23, 1988, based on the Court's instruction to the Department on September 20, 1988 to issue a redetermination on the issue of automatic portable electric typewriters, the Department determined that automatic portable electric typewriters are within the scope of the antidumping duty order on portable electric typewriters from Japan.

On February 3, 1989, the CIT affirmed the Department's November 23, 1988 determination with respect to automatic portable portable electric typewriters, and the Department's March 18, 1988 determination with respect to non-automatic portable electric typewriters incorporating a calculating mechanism.

On April 3, 1989, respondents appealed the CIT's decision in the Court of Appeals for the Federal Circuit ("CAFC"). A decision from this Court is still pending.

The CAFC issued a decision in *The Timken Company* v. *United States*, 893 F.2d 337 (Fed. Cir. 1990), *reh'g. denied* (March 12, 1990), that stated in part "If the CIT (or this court) renders a decision which is not in harmony with Commerce's determination, then Commerce must publish notice of the decision within ten days of issuance (i.e., entry of judgement), regardless of the time for appeal or of whether an appeal is taken." (*Slip Op.* at 10). The CAFC stated that if the CIT or the CAFC renders a decision which is contrary to a Commerce determination, the presumption of correctness accorded the Commerce decision disappears. "Thereafter," the CAFC directed, "Commerce should suspend liquidation until there is a conclusive court decision which decides the matter, so that subsequent entries can be liquidated in accordance with that decision." (*Slip Op.* at 11.) The court issued its mandate in Timken on March 19, 1990.

### Suspension of Liquidation

In accordance with the decision in Timken, we will instruct the Customs Service to suspend liquidation of all unliquidated entries of automatic portable electric typewriters, i.e., those incorporating text memory, and portable electric typewriters incorporating a calculating mechanism which were entered, or withdrawn from warehouse, for consumption on or after February 3, 1989.

Dated: March 29, 1990.

**Lisa B. Barry,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 90-7777 Filed 4-4-90; 8:45 am]

BILLING CODE 3510-DS-M

## Quarterly Update of Foreign Government Subsidies on Articles of Quota Cheese

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

**ACTION:** Publication of quarterly update of foreign government subsidies on articles of quota cheese.

**SUMMARY:** The Department of Commerce, in consultation with the Secretary of Agriculture, has prepared a quarterly update to its annual list of foreign government subsidies on articles of quota cheese. We are publishing the current listing of those subsidies that we have determined exist.

**EFFECTIVE DATE:** April 1, 1990.

**FOR FURTHER INFORMATION CONTACT:** Patricia W. Stroup or Paul J. McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-2786.

**SUPPLEMENTARY INFORMATION:** Section 702(a) of the Trade Agreements Act of 1979 ("The TAA") requires the Department of Commerce ("the Department") to determine, in consultation with the Secretary of

Agriculture, whether any foreign government is providing a subsidy with respect to any article of quota cheese, as defined in section 701(c)(1) of the TAA, and to publish an annual list and quarterly updates of the type and amount of those subsidies.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702(h)(2) of the TAA) being provided either directly or indirectly by foreign governments on articles of quota cheese.

In the current quarter the Department has determined that the subsidy amounts have changed for each of the countries for which subsidies were identified in our January 1, 1990 annual subsidy list. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amount of each subsidy on which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of quota cheese to submit such information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the TAA (19 U.S.C. 1202 note).

Dated: March 26, 1990.

**Lisa B. Barry,**

*Acting Assistant Secretary for Import Administration.*

APPENDIX.—QUOTA CHEESE SUBSIDY PROGRAMS

| County | Program(s) | Gross [1] Subsidy (cents per pound) | Net [2] Subsidy (cents per pound) |
|---|---|---|---|
| Belgium | European Community (EC) Restitution Payments | 58.3 | 58.3 |
| Canada | Export Assistance on Certain Types of Cheese | 30.1 | 30.1 |
| Denmark | EC Restitution Payments | 51.6 | 51.6 |
| Finland | Export Subsidy | 140.5 | 140.5 |
| France | EC Restitution Payments | 50.7 | 50.7 |
| Greece | EC Restitution Payments | 29.9 | 29.9 |
| Ireland | EC Restitution Payments | 59.6 | 59.6 |
| Italy | EC Restitution Payments | 63.6 | 63.6 |
| Luxembourg | EC Restitution Payments | 58.3 | 58.3 |
| Netherlands | EC Restitution Payments | 42.7 | 42.7 |
| Norway | Indirect (Milk) Subsidy | 18.4 | 18.4 |
| | Consumer Subsidy | 40.7 | 40.7 |
| | | 59.1 | 59.1 |
| Portugal | EC Restitution Payments | 39.1 | 39.1 |
| Spain | EC Restitution Payments | 43.8 | 43.8 |
| Switzerland | Deficiency Payments | 92.9 | 92.9 |
| U.K. | EC Restitution Payments | 37.6 | 37.6 |
| W. Germany | EC Restitution Payments | 50.4 | 50.4 |

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).

[FR Doc. 90-778 Filed 4-4-90; 8:45 am]
BILLING CODE 3510-DS-M

[C-533-063]

## Certain Iron-Metal Castings From India; Preliminary Results of Countervailing Duty Administrative Review

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

**ACTION:** Notice of preliminary results of countervailing duty administrative review.

**SUMMARY:** The Department of Commerce has conducted an administrative review of the countervailing duty order on certain iron-metal castings from India. We preliminarily determine the net subsidy to be 10.22 percent *ad valorem* for R.B. Agarwalla, 22.99 percent *ad valorem* for Carnation, 36.40 percent *ad valorem* for Crescent, 79.12 percent *ad valorem* for Govind, 44.84 percent *ad valorem* for Kajaria, 9.11 percent *ad valorem* for RSI, 42.25 percent *ad valorem* for Serampore and 29.14 percent *ad valorem* for all other firms during the period January 1, 1985 through December 31, 1985. We invite interested parties to comment on these preliminary results.

**EFFECTIVE DATE:** April 5, 1990.

**FOR FURTHER INFORMATION CONTACT:** Philip Pia or Paul McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

**SUPPLEMENTARY INFORMATION:**

### Background

On December 22, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 45788) the final results of its last administrative review of the countervailing duty order on certain iron-metal castings from India (October 16, 1980; 46 FR 16921). On September 23, 1988, we amended those final results in accordance with a decision upon remand from the Court of International Trade (53 FR 37014). On October 15, 1985, the petitioner, Pinkerton Foundry, Inc., requested an administrative review of the order. We initiated the review on March 4, 1987 (52 FR 6594). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

### Scope of Review

The United States, under the auspices of the Customs Cooperation Council, has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. On January 1, 1989, the United States fully converted to the *Harmonized Tariff Schedule* (HTS), as

provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by the review are shipments of Indian manhole covers and frames, clean-out covers and frames, and catch basin grates and frames. These articles are commonly called municipal or public works castings and are used for access or for drainage for public utility, water, and sanitary systems. During the review period, such merchandise was classifiable under *Tariff Schedules of the United States Annotated* item numbers 657.0950 and 657.0990. These products are currently classifiable under HTS item numbers 7325.10.0010 and 7325.10.0050. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period January 1, 1985 through December 31, 1985 and ten programs.

**Analysis of Programs**

*(1) International Price Reimbursement Scheme ("IPRS")*

On February 9, 1981, the Government of India introduced the IPRS for exporters of products with steel inputs. The purpose of the program is to rebate the difference between higher domestic and lower international prices of steel. On September 28, 1983 and August 10, 1987, the Indian government extended the IPRS to include pig iron and scrap inputs, respectively. The rebate is funded through collection of a levy on all domestic purchases of steel, pig iron and scrap. The Joint Plant Committee ("JPC"), a government-directed organization comprised largely of pig iron and steel producers, sets domestic steel, pig iron and scrap prices and determines the specific levy for each pig iron and steel product based on the anticipated need for each of those inputs in exported products.

The Engineering Export Promotion Council ("EEPC"), a non-profit organization funded by the Indian government and private firms, processes the claims for, and disburses, the rebate. The rebate is calculated by multiplying the differential between the domestic and international prices of pig iron by a standard factor of 110 percent of the volume of pig iron in the exported castings (which includes a 10 percent allowance for waste). Castings exporters obtained IPRS rebates for pig iron during the review period.

We consider a government program that results in the provision of an input to exporters at a price lower than to producers of domestically-sold products to confer a subsidy within the meaning of section 771 (5) of the Tariff Act. Therefore, we preliminarily determine the IPRS program to confer a countervailable export subsidy.

To calculate the benefit from this program, we allocated the total amount of rebate received by each firm during the review period over each firm's total exports of the subject merchandise. Because the aggregate net subsidy for seven firms is significantly different from the weighted-average country-wide rate, we calculated the net subsidy in accordance with § 355.22(d) of the Commerce regulations. On this basis, we preliminarily determine the net subsidy from this program to be 9.11 percent *ad valorem* for R.B. Agarwalla, 21.81 percent *ad valorem* for Carnation, 30.92 percent *ad valorem* for Crescent, 65.83 percent *ad valorem* for Govind, 39.17 percent *ad valorem* for Kajaria, 7.98 percent *ad valorem* for RSI, 41.18 percent *ad valorem* for Serampore and 25.02 percent *ad valorem* for all other firms.

At verification, we established that the EEPC stopped accepting any IPRS claims filed on shipments of the subject merchandise exported to the United States after July 1, 1987. Therefore, for purposes of the cash deposit of estimated countervailing duties, we preliminarily determine the benefit from this program to be zero.

*(2) Cash Compensatory Support Program ("CCS")*

The Government of India introduced the CCS program in 1966 with the primary purpose of rebating indirect taxes on exported merchandise. The rebates are paid as a percentage of the f.o.b. invoice price. In "Certain Iron-Metal Castings From India; Final Results of Administrative Review of Countervailing Duty Order" (48 FR 56092; December 19, 1983), we found that the Indian government had satisfactorily demonstrated the requisite linkage between the indirect tax incidence on the subject merchandise and the CCS payment.

Although the Indian government rebates various indirect taxes upon export through the CCS program, the Tariff Act allows the rebate of only the following: (1) Indirect taxes borne by inputs that are physically incorporated in the exported product; and (2) indirect taxes at the final stage. If the payment upon export exceeds the total amount of allowable indirect taxes described above, the Department considers the difference to be an overrebate of indirect taxes and, therefore, a subsidy.

We consider pig iron, scrap iron, paint and packing and materials as physically incorporated raw material inputs. The allowable indirect taxes on these materials include Central and West Bengal sales taxes, octroi tax, central excise tax, turnover tax, the freight equalization levy, and stamp duties for bills of lading, letters of credit, receipts and drafts.

Because the average indirect tax incidence on the subject merchandise for calendar year 1985 exceeded the five percent CCS payment, we preliminarily determine that there is no overrebate of indirect taxes to castings producers and, therefore, no countervailable benefit from this program.

*(3) Pre-Shipment Export Loans*

The Reserve Bank of India, through commercial banks, provides pre-shipment or "packing" credit to exporters, allowing them to purchase raw materials and packing materials based on presentation of a confirmed order or letter of credit. In general, the loans are granted for a period of 90 to 180 days, with penalty charges for late interest payments. During the review period, the rate of interest under this program was 12 percent per annum for 90-day, 135-day and up to 180-day loans.

The maximum comparable commercial interest rate during the 1985–1986 fiscal year was 16.50 percent per annum for small-scale industries with loans over Rs 2 lakhs and up to Rs 25 lakhs, as quoted by the Reserve Bank of India in its bulletin entitled "Report on Trend and Progress of Banking in India" for fiscal year 1985–1986. Since the Government of India characterized all castings producers/exporters subject to the review as small-scale industries and because no castings firms reported pre-shipment credit exceeding Rs 25 lakhs during the review period, we have used 16.50 percent as our benchmark interest rate. Therefore, the interest differential for these loans was 4.5 percent, and we preliminarily determine this program to confer a countervailable export subsidy.

To calculate the benefit from these loans, we multiplied the interest differential by each firm's total borrowings and divided the result of each firm's total borrowings and divided the result by each firm's total exports. In accordance with § 355.22(d), we preliminarily determine the net subsidy from this program to be 0.49 percent *ad valorem* for R.B. Agarwalla, zero for Carnation, zero for Crescent, 4.84 percent *ad valorem* for Kajaria, 1.48

percent *ad valorem* for Govind, 1.13 percent *ad valorem* for RSI, 0.36 percent *ad valorem* for Serampore and 0.49 percent *ad valorem* for all other firms.

*(4) Preferential Post-shipment Financing*

The Reserve Bank of India, through commercial banks, provides post-shipment credit to exporters. Exporters are eligible for post-shipment credit with 60 to 80 day repayment terms. During the review period, the rate of interest under this program was 12 percent per annum. The comparable commercial interest rate during the review period was 16.5 percent per annum. Therefore, the interest differential for these loans was 4.5 percent, and we preliminarily determine this program to confer a countervailable export subsidy.

Three exporters, Kejriwal, Serampore and Super Castings used post-shipment financing during the review period. To calculate the benefit from these loans, we multiplied the interest differential by each firm's total borrowings and divided the result by each firm's total exports. In accordance with § 355.22(d), we preliminarily determine the net subsidy from this program to be zero for R.B. Agarwalla, Carnation, Crescent, Govind, Kajaria, and RSI, 0.59 percent *ad valorem* for Serampore and 0.76 percent *ad valorem* for all other firms.

*(5) Income Tax Reductions*

Under section 80HHC of the Finance Act of 1983, the Government of India allowed exporters to deduct one percent of taxes paid on export sales and five percent of taxes paid on the incremental increase of export sales over the previous fiscal year during assessment years 1983–84, 1984–85 and 1985–86. However, section 80VVA limited the deduction under section 80HHC to 70 percent of net income. Because this tax deduction is contingent upon export performance and available only to exporters, we preliminarily determine that it confers a countervailable export subsidy.

To calculate the benefit, we multiplied the income tax deductions claimed by each firm by the corporate income tax rate and divided the result by each firm's total exports. In accordance with § 355.22(d), we preliminarily determine the net subsidy from this program to be 0.62 percent *ad valorem* for R.B. Agarwalla, 1.18 percent *ad valorem* for Carnation, 5.48 percent *ad valorem* for Crescent, 11.81 percent *ad valorem* for Govind, 0.83 percent *ad valorem* for Kajaria, zero for RSI, 0.12 percent *ad valorem* for Serampore and 2.86 percent *ad valorem* for all other firms.

*(6) Market Development Assistance ("MDA") Grants*

The Ministry of Commerce examines and approves all MDA grants, but the program is administered by the Federation of Indian Export Organizations. The purpose of the program is to provide grants-in-aid to approved organizations (*i.e.*, export houses) to promote the development of markets for Indian goods abroad. Such development projects may include market research, export publicity, and participation in trade fairs and exhibitions. Because these MDA grants are available only to export houses, we preliminarily determine that such grants confer a countervailable export subsidy.

Of the eleven known exporters, only one received MDA grants related to exports of the subject merchandise to the United States during the review period. To calculate the benefit, we divided the value of the grant received by the value of the firm's total exports to the United States. In accordance with § 355.22(d), we preliminarily determine the net subsidy from this program to be zero for R.B. Agarwalls, Carnation, Crescent, Govind, Kajaria, RSI and Serampore, and 0.01 percent *ad valorem* for all other firms.

*(7) Other Programs*

We also examined the following programs and preliminarily determine that exporters of certain iron-metal castings did not use them during the review period:

A. Sale of Import Replenishment Licenses;

B. Extension of the Free Trade Zones;

C. Preferential Freight rates; and

D. Import duty exemptions available to 100 percent export-oriented units.

**Preliminary Results of Review**

As a result of our review, we preliminarily determine that the following net subsidies exist for the period January 1, 1985 through December 31, 1985:

| Manufacturer/exporter | Net subsidy (percent) |
|---|---|
| R.B. Agarwalla | 10.22 |
| Carnation | 22.99 |
| Crescent | 36.40 |
| Govind | 79.12 |
| Kajaria | 44.84 |
| RSI | 9.11 |
| Serampore | 42.25 |
| All other firms | 29.14 |

The Department intends to instruct the Customs Service to assess countervailing duties at the above percentages of the f.o.b. invoice price on shipments of the subject merchandise exported on or after January 1, 1985, and on or before December 31, 1985.

The Department also intends, as a result of the termination of benefits attributable to the IPRS program, to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 13.29 percent of the f.o.b. invoice price for Govind and 2.79 percent for all other firms on shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

Parties to the proceeding may request disclosure of the calculation methodology and interested parties may request a hearing not later than 10 days after date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Any hearing, if requested pursuant to § 355.38(b), will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38(e). Any request for disclosure under an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: March 26, 1990.

**Lisa B. Barry,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 90–7779 Filed 4–4–90; 8:45am]

BILLING CODE 3510–DS–M

[C–201–008]

## Yarns of Polypropylene Fibers From Mexico; Termination of Suspended Countervailing Duty Investigation

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

**ACTION:** Notice of termination of suspended countervailing duty investigation.

**SUMMARY:** The Department of Commerce is terminating the suspended countervailing duty investigation on yarns of polypropylene fibers from Mexico because it is no longer of interest to interested parties.

**EFFECTIVE DATE:** January 1, 1990.

**FOR FURTHER INFORMATION CONTACT:** Millie Mack or Barbara Williams, Office of Agreements Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–3793.

**SUPPLEMENTARY INFORMATION:**

*Background*

On February 1, 1990, the Department of Commerce ("the Department") published in the **Federal Register** (55 FR 3440) its intent to terminate the suspended countervailing duty investigation on yarns of polypropylene fibers from Mexico (48 FR 5581; February 7, 1983). Interested parties who objected to the termination were provided the opportunity to submit their comments on or before February 28, 1990. Additionally, as required by § 355.25(d)(4)(ii) of the Department's regulations, the Department served written notice of its intent to terminate this suspended investigation on each interested party listed on the service list. On February 9, 1990, the Department published a notice of opportunity to request an administrative review in this proceeding (55 FR 4646) for the period January 1, 1989 through December 31, 1989.

**Scope of Suspended Investigation**

The United States, under the auspices of the Customs Cooperation Council, has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the *Harmonized Tariff Schedule* ("HTS"), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

The suspension agreement is applicable to all yarns of polypropylene fibers manufactured by Industrias Polifil S.A. de C.V. and directly or indirectly exported to the United States. Yarns of polypropylene fibers are used primarily in the manufacture of fabrics, particularly those for upholstery. Through 1988, such merchandise was classifiable under item numbers 310.0214, 310.1114, 310.5015, 310.5051, 310.6029, 310.6038 and 310.8000 of the *Tariff Schedules of the United States Annotated.* This merchandise is currently classifiable under HTS item numbers 5402.39.30.10, 5402.39.60.10, 5402.49.00.70, 5402.59.00.00, 5402.69.00.00, 5509.41.00.00, 5509.42.00.00. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

**Determination to Terminate**

The Department may terminate a suspended investigation if the Secretary of Commerce concludes that a suspended investigation is no longer of interest to interested parties. We received no objections to our intent to terminate the suspended investigation on yarns of polypropylene fibers from Mexico and have not received a request to conduct an administrative review of the suspended investigation for more than four consecutive anniversary months.

Based on the absence of both objections to the termination of this suspended investigation and requests for administrative reviews by interested parties, the Department has concluded that the suspended investigation is no longer of interest to interested parties. Therefore, we are terminating the suspended countervailing duty investigation on yarns of polypropylene fibers from Mexico in accordance with § 355.25(d)(4) of the Department's regulations. The effective date of this termination is January 1, 1990.

This notice is in accordance with 19 CFR 355.25(d)(3)(vii) and 355.25(d)(5).

Dated: March 28, 1990.

**Lisa B. Barry,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 90–7780 Filed 4–4–90; 8:45 am]

BILLING CODE 3510–DS–M

## National Oceanic and Atmospheric Administration

### Endangered Marine Mammals

**AGENCY:** National Marine Fisheries Service, NOAA, Commerce.

**ACTION:** Request for modification to scientific research permit no. 584.

**SUMMARY:** Notice is hereby given that the Alaska Fisheries Science Center, National Marine Mammal Laboratory, 7600 Sand Point Way NE., Bin C15700, Seattle, Washington 98115–0070, has requested a modification to Permit No. 584, pursuant to the provisions of § 216.33(d) and (2) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), and § 220.24 of the Regulations Governing Endangered Species (50 CFR parts 217–222).

Permit No. 584, issued on April 1, 1987 and published in the **Federal Register** April 24, 1987 (52 FR 1374), authorizes the taking of northern sea lions (*Eumetopias jubatus*), harbor seals (*Phoca vitulina*), largha seals (*Phoca largha*), ringed seals (*Phoca hispida*), ribbon seals (*Phoca fasciata*) and bearded seals (*Erignathus barbatus*), for scientific research purposes under the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 *et seq.*). This modification affects only the research authorized for the northern sea lion.

With the pending classification of northern sea lions under the Endangered Species Act, this modification would reflect this change in the northern sea lion's status. Thus, NMML requests permission to continue research studies of this species under the provisions of both the Marine Mammal Protection Act and the Endangered Species Act. Additionally, NMML requests deletion of authority for lethal take of northern sea lions (reference section IV.A.1.b.). No intentional sacrifice of northern sea lions is authorized through 1992. This modification, if approved, would take effect no later than June 1, 1990.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this modification request to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East West Highway, Room 7330, Silver Spring, Maryland 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above modification request is available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1335 East West Highway, Room 7330, Silver Spring, Maryland 20910;

Director, Alaska Region, National Marine Fisheries Service, NOAA, 709 West 9th Street, Federal Bldg., Juneau, Alaska 99802; and

Director, Northwest Region, National Marine Fisheries, 7600 Sand Point Way, NE, BIN C15700, Seattle, Washington 98115.

Dated: March 30, 1990.

**Nancy Foster,**

*Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.*

[FR Doc. 90-7753 Filed 4-4-90; 8:45 am]

BILLING CODE 3510-22-M

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Adjustment of Import Limits for Certain Cotton Textile Products Produced or Manufactured in Pakistan

March 30, 1990.

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

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

**EFFECTIVE DATE:** April 6, 1990.

**FOR FURTHER INFORMATION CONTACT:** Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343-6498. For information on embargoes and quota re-openings, call (202) 377-3715.

**SUPPLEMENTARY INFORMATION:**

**Authority:** Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain cotton textile products are being reduced for carryforward used during the previous agreement year.

A description of the textile and apparel categories in terms of HTS numbers is available in the Correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 54 FR 50797, published on December 11, 1989). Also see 54 FR 48293, published on November 22, 1989.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Philip J. Martello,

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

**Committee for the Implementation of Textile Agreements**

March 30, 1990.

Commissioner of Customs,

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

Dear Commissioner: This directive amends, but does not cancel, the directive of November 16, 1989, as amended, issued to you by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Pakistan and exported during the period January 1, 1990 through December 31, 1990.

Effective on April 6, 1990 you are directed to reduce the limits for cotton textile products in the following categories, as provided under the terms of the current bilateral textile agreement between the Governments of the United States and Pakistan:

| Category | Adjusted twelve-month limit [1] |
|---|---|
| 338 | 2,992,282 dozen. |
| 339 | 700,624 dozen. |
| 363 | 27,832,613 numbers. |
| 369-R [2] | 5,751,502 kilograms. |

[1] The limits have not been adjusted to account for any imports exported after December 31, 1989.

[2] Category 369-R: only HTS number 6307.10.2020.

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

Sincerely,

Philip J. Martello,

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

[FR Doc. 90-7782 Filed 4-4-90; 8:45 am]

BILLING CODE 3510-DR-M

### Establishment of an Import Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Turkey

March 30, 1990.

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

**ACTION:** Issuing a directive to the Commissioner of Customs establishing a limit.

**EFFECTIVE DATE:** April 6, 1990.

**FOR FURTHER INFORMATION CONTACT:** Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343-6582. For information on embargoes and quota re-openings, call (202) 377-3715. For information on categories on which consultations have been requested, call (202) 377-3740.

**SUPPLEMENTARY INFORMATION:**

**Authority.** Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

Inasmuch as consultations held February 20-23, 1990 between the Governments of the United States and the Republic of Turkey have not resulted in a satisfactory solution for Categories 351/651, the Government of the United States has decided to establish a twelve-month limit for imports of cotton and man-made fiber textile products in Categories 351/651.

The United States remains committed to finding a solution concerning Categories 351/651. Should such a solution be reached in further consulations with the Government of the Republic of Turkey, further notice will be published in the **Federal Register.**

A description of the textile and apparel categories in terms of HTS numbers is available in the correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 54 FR 50797, published on December 11, 1989). Also see 54 FR 53355, published on December 28, 1989.

Philip J. Martello,

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

**Committee for the Implementation of Textile Agreements**

March 30, 1990.

Commissioner of Customs,

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

Dear Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on April 6, 1990, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 351/651, produced or manufactured in Turkey and exported during

the twelve-month period beginning on November 29, 1989 and extending through November 28, 1990, in excess of 125,554 dozen [1].

Textile products in Categories 351/651 which have been exported to the United States prior to November 29, 1989 will not be subject to this directive.

Textile products in Categories 351/651 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

You are directed to charge 29,861 dozen for Category 351 to the limit established in this directive. These charges are for goods imported during the period November 29, 1989 through January 31, 1990. Additional charges will be provided as data become available.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

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

Sincerely,

Philip J. Martello,

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

[FR Doc. 90-7783 Filed 4-4-90; 8:45 am]

BILLING CODE 3510-DR-M

## DEPARTMENT OF DEFENSE

### Department of the Air Force

### USAF Scientific Advisory Board; Meeting

March 27, 1990.

The USAF Scientific Advisory Board Ad Hoc Committee Summer Study on Technology Options and Concepts for Defeating Enemy Air Defenses will meet on 24 April 1990 from 8 a.m. to 5 p.m. at the ANSER Corp., 1215 Jefferson Davis Hwy, Arlington, VA 22202.

The purpose of this meeting will be to receive briefings relevant to Technology Options and Concepts for Defeating Enemy Air Defenses. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Patsy J. Conner,

*Air Force Federal Register Liaison Officer.*

[FR Doc. 7847 Filed 4-4-90; 8:45 am]

BILLING CODE 3910-01-M

### USAF Scientific Advisory Board; Meeting

March 30, 1990.

The USAF Scientific Advisory Board Airlift Cross-Matrix Panel will meet on April 20, 1990 from 8 a.m. to 5 p.m. at the AF Space Command, Peterson AFB, CO.

The purpose of this meeting will be to brief the Airlift Cross-Matrix panel on AF Space Command capabilities. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Patsy J. Conner,

*Air Force Federal Register Liaison Officer.*

[FR Doc. 90-7848 Filed 4-4-90; 8:45 am]

BILLING CODE 3910-01-M

### USAF Scientific Advisory Board; Meeting

March 27, 1990.

The USAF Scientific Advisory Board Ad Hoc Committee Summer Study on Technology Options and Concepts for Defeating Enemy Air Defenses will meet on 23 April 1990 from 8:00 a.m. to 5:00 p.m. at the US Army Missile Command and the US Army Missile and Space Intelligence Command, Redstone Arsenal, Hunstville, AL 35898.

The purpose of this meeting will be to receive briefings relevant to Technology Options and Concepts for Defeating Enemy Air Defenses. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Patsy J. Conner,

*Air Force Federal Register Liaison Officer.*

[FR Doc. 90-7849 Filed 4-4-90; 8:45 am]

BILLING CODE 3910-01-M

## DEPARTMENT OF ENERGY

### Morgantown Energy Technology Center; Financial Assistance Award to Southern Company Services, Inc. (Research Cooperative Agreement)

**AGENCY:** U.S. Department of Energy (DOE), Morgantown Energy Technology Center.

**ACTION:** Notice of Acceptance of an Unsolicited Financial Assistance Application for a Research Cooperative Agreement.

**SUMMARY:** The U.S. DOE, Morgantown Energy Technology Center, in accordance with 10 CFR 600.14(e)(1)(ii), gives notice of its plans to award a 60-month Research Cooperative Agreement to Southern Company Services, Inc., Birmingham, Alabama. The total project cost proposed by Southern Company Services is $53,260,992, of which 20 percent will be cost shared.

The pending award is based on an unsolicited application for a research project entitled "Hot Gas Cleanup Test Facility for Gasification and Pressurized Combustion." The research will attempt to evaluate hot gas particulate control techniques using coal-derived gas streams.

The proposed project will benefit the public by accelerating the advancement of Pressurized Fluidized-Bed Combustion (PFBC) and Intergrated Gasification Combined Cycle (IGCC) systems. Commercial PFBC or IGCC power plants incorporating hot gas cleanup technologies have the potential to produce electric power at lower cost and with less environmental emissions than conventional pulverized coal power plants.

**FOR FURTHER INFORMATION CONTACT:** Raymond R. Jarr, I07, U.S. Department of Energy, Morgantown Energy Technology Center, P.O. Box 880, Morgantown, West Virginia 26507-0880, Telephone: (304) 291-4088, Procurement Request No. 21-90MC25140.000.

**SUPPLEMENTARY INFORMATION:** The proposed research project will evaluate integrated engineering designs of selected advanced particle control technologies through proof-of-concept testing on an engineering scale dirty gas source. The dirty gas reactor will produce gas representative of PFBC or IGCC conditions. Conceptual design, detail design, and installation of the test facility will be performed over the first 3-year period. The final 2 years of the 5-year project will be devoted to operation testing of selected advanced particle control technologies.

[1] The limit has not been adjusted to account for any imports exported after November 28, 1989.

Some engineering issues that are currently facing advanced particle control technologies which will be addressed in this project are: proper filter design/geometry, effect of particulate loading, integrity of filter seal materials/designs, filter cleaning techniques (blowback), operating temperature limitations, short-term trace contaminant effects, filter retaining design, inlet and outlet manifolding designs, and filter conditioning. The proposed facility will permit testing of cleanup control technologies in an integrated engineering test facility in actual coal combustion/gasification environments.

Dated: March 29, 1990.

**Louie L. Calaway,**

*Director, Acquisition and Assistance Division, Morgantown Energy Technology Center.*

[FR Doc. 90-7878 Filed 4-4-90; 8:45 am]

BILLING CODE 6450-01-M

## Office of Fossil Energy

**[FE Docket No. 89-88-NG]**

## Energy Marketing Exchange, Inc.; Application To Import Natural Gas From Canada

**AGENCY:** Office of Fossil Energy, DOE.

**ACTION:** Notice of Application for a Long-Term and a Blanket Authorization to Import Canadian Natural Gas.

**SUMMARY:** The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on December 15, 1989, of an application filed by Energy Marketing Exchange, Inc. (EME) for authorization to import up to 6,000 MMBtu (approximately 5,976 Mcf) per day of Canadian natural gas over a 15-year term, commencing on the date of first delivery. The imported gas would be purchased from Ramarro Resources Ltd. (Ramarro) and used to fuel an existing 35 megawatt (MW) cogeneration facility located in Milford, New Jersey. The gas would be imported at the international boundary of the United States and Canada near Niagara, New York, and transported within the United States through existing and proposed pipeline facilities.

EME further requests authorization to import the gas quantities subject to its long-term request on a short-term, blanket basis, up to the two-year aggregate of 4,362,550 Mcf, for resale to other end-use markets served by Elizabethtown Gas Company (Etown), the local distribution company serving the cogeneration plant, and other local distribution company systems in the United States when the imported gas is not required by the Milford facility. EME was granted blanket authority to import up to 50 Bcf of Canadian natural gas over a two-year term beginning on the date of first delivery in ERA Opinion and Order No. 109, issued February 6, 1986. No delivery under that order has been reported to date.

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.

**DATES:** Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.d.t., May 7, 1990.

**ADDRESSES:** Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F-056, FE-50, 1000 Independence Avenue, SW., Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:**

Perry Bolger, Office of Fuel Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F-056, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-1789.

Diane J. Stubbs, 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:** EME, a wholly-owned subsidiary of KCS Group, Inc., a Delaware corporation, is a New Jersey corporation and has marketed natural gas to industrial end-users including electric utility companies and to local distribution companies since early 1984. EME states that it has a 10-year contract, that may be extended for an additional five years, to supply the natural gas and fuel oil requirements for an existing cogeneration facility owned by Kamine Milford Limited Partnership and located on a leased site at the Reigel Products Corporation paper plant in Milford, New Jersey. The cogeneration facility is a qualified facility under the Public Utility Regulatory Policies Act of 1978 (PURPA). The steam produced by the facility will be sold to the Riegel Products Corporation and the electricity sold to Jersey Central Power and Light Company (JCP&L) under a 15-year power purchase agreement approved by the New Jersey Board of Public Utilities on August 14, 1987.

EME proposes to purchase the gas to be imported from Ramarro pursuant to a gas sales contract executed on July 24, 1989, and enclosed as part of the application. Under the agreement, EME would purchase from Ramarro a daily contract quantity of up to 5,976 Mcf during a fifteen year term. If EME nominates in any contract year less than 70 percent of the daily contract quantity, Ramarro may upon proper notice assess against EME certain take or pay charges, subject to subsequent make-up provisions. If Ramarro delivers less than EME's nomination, Ramarro is obligated to indemnify EME against any incremental gas costs and expenses reasonably incurred by EME to replace the Ramarro supply.

The proposed contract would require EME to pay Ramarro a base price less associated transportation charges incurred by EME from TransCanada Pipeline Limited (TCPL) for gas delivered. EME states that the base price for gas delivered during the first quarter of 1989 would have been $2.40 per MMBtu (U.S.) ($2.41 per Mcf). The contract provides that 40 percent of the base price will be adjusted at the beginning of each contract year to reflect changes in gas costs paid by JCP&L during the prior year, as reported in DOE/EIA publication "Cost and Quality of Fuel for Electric Utility Plants." Sixty percent of the base price will be adjusted each calendar quarter to reflect changes in the price of gas delivered to Transcontinental Gas Pipe Line Corporation (Transco) in Louisiana as posted in "Prices of Spot Gas Delivered to Pipelines" and published in "Inside FERC's Gas Market Report" during the last two months of the prior quarter and the first month of the current quarter.

The contract further provides that under certain circumstances (financial loss) the base price will be subject to renegotiation in contract years 5 and 10. Finally the contract provides for a floor price equal to 98 percent of the Alberta average market price (i.e., the Alberta market price over each contract year).

EME indicates that Ramarro would transport the natural gas through the pipeline facilities of TransGas Limited in the Province of Saskatchewan to an existing interconnection with the pipeline facilities of TCPL. The gas would then be transported on the TCPL system to an existing interconnection with Tennessee Gas Pipeline Company (Tennessee) at Niagara, New York. From the Tennessee interconnect with TCPL, Tennessee will transport the gas to National Fuel Gas Corporation (National Fuel) at Clarence, New York. From the National Fuel interconnection with Tennessee, National Fuel will transport

the gas to Transco at Wharton, Pennsylvania. From the Transco interconnect with National Fuel, Transco will transport the gas to the city-gate of Etown. EME anticipates the new facilities of Tennessee, National Fuel and Transco, upon which EME depends for firm service, to be in place by 1990. In the event these facilities are not in place by November 1, 1990, the applicant would arrange domestic transportation on an interruptible basis.

In support of its application, EME states that the gas to be imported will provide a reliable, long-term and secure supply of competitively priced gas to the cogeneration facility and/or to other end-use markets which the gas could competitively serve. The contract's price provisions provide for market-responsive pricing subject to quarterly adjustments, renegotiation of the base price in contract years five and ten and, arbitration in the event agreement on changes cannot be reached. Further, EME asserts that the requested import will supply clean burning natural gas as fuel to a facility that serves the vital function of supplying approximately 35 MW of electric power to a region which is experiencing a shortage of peak period electric generating capacity and has a high likelihood of experiencing electric power shortages by 1991.

The applicant also states that Ramarro warrants in the contract that it has sufficient gas reserves to deliver the full daily contract quantity over the current term and dedicates such reserves described in the contract to the performance of its obligation. Ramarro further commits to indemnify EME for certain incremental costs and expenses in the event that EME must obtain an alternate fuel supply because of Ramarro's inability to deliver the contract volumes. For these reasons, EME maintains that the proposed import is consistent with the public interest.

The decision on EME's 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). Other matters that may be considered in making a public interest determination include need for gas, security of the long-term supply, and any relevant issues that may be unique to cogeneration facilities. Parties that may oppose this application should comment in their responses on the issues of competitiveness, need for the gas, and security of supply as set forth in the policy guidelines. EME asserts that this import arrangement is in the public interest because it is competitive and its gas source will be secure. Parties opposing the import arrangement bear the burden of overcoming these assertions.

All parties should be aware that if the requested import is approved, the authorization would be conditioned on the filing of quarterly reports indicating volumes imported and the purchase price.

### NEPA Compliance

The National Environmental Policy Act (NEPA), (42 U.S.C. 4321 *et seq.*) requires the DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until the DOE has met its NEPA responsibilities.

### 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 at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including 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 EME's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on March 29, 1990.

**Clifford P. Tomaszewski,**

*Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.*

[FR Doc. 90–7879 Filed 4–4–90; 8:45 am]

BILLING CODE 6450–01–M

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## Federal Energy Regulatory Commission

**[Docket Nos. ER90–272–000, et al.]**

## Indiana Michigan Power Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

### 1. Indiana Michigan Power Company

[Docket No. ER90–272–000]

March 27, 1990.

Take notice that Indiana Michigan Power Company (I&M) on March 21, 1990, tendered for filing proposed amendments to its FERC Electric Tariffs MRS and WS For Municipal Resale Electric Service, Original Volume No. 1. The proposed changes would increase I&M's annual revenues from its affected municipal customers by approximately $3,975,498 based upon the 12-month period ending December 31, 1990. I&M proposes an effective date of May 21, 1990, the first day after the 60-day notice period.

I&M states that since the Commission's acceptance of the rates currently in effect, certain changes have occurred which affect I&M's revenue requirements. These changes include: (1) The commercial operation of Rockport Plant Unit No. 2 which was sold and leased back in December 1989; (2) changes in wholesale and retail sales levels; and (3) various other jurisdictional cost-of-service changes, including the cost of capital.

I&M states that a copy of its filing was served upon the affected municipal customers, the Indiana Utility Regulatory Commission and the Michigan Public Service Commission.

*Comment date:* April 11, 1990, in accordance with Standard Paragraph E at the end of this notice.

**2. Cambridge Electric Light Company**

[Docket No. ER90-283-000]

March 27, 1990.

Take notice that on March 23, 1990 Cambridge Electric Light Company (Cambridge) tendered for filing, pursuant to § 35.13 of the Commission's Regulations, a proposed rate schedule affecting the sale of the electric power to the Municipal Light Department of the Town of Belmont, Massachusetts (Belmont), its only partial requirements customer. The tendered filing consists of a proposed Partial Requirements Rate Schedule PR-3 and an implementing and unexecuted service agreement (replacing Service Agreement No. 2 as supplemented) by and between Cambridge and Belmont. Cambridge states that the proposed rate schedule is designed to increase its jurisdictional revenues from its power supply services to Belmont by 55% and is the first such increase since July 1, 1985.

Cambridge further states that copies of the tendered filing have been served upon Belmont and the Massachusetts Department of Public Utilities.

*Comment date:* April 11, 1990, in accordance with Standard Paragraph E at the end of this notice.

**3. Dartmouth Power Associates Limited Partnership**

[Docket No. ER90-278-000]

March 27, 1990.

Take notice that on March 21, 1990, Dartmouth Power Associates Limited Partnership, organized under the laws of the Commonwealth of Massachusetts, submitted for filing, pursuant to Rule 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.207, an initial rate schedule for sales to Commonwealth Electric Company.

*Comment date:* April 11, 1990, 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 and are available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 90-7789 Filed 4-4-90; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket Nos. ST90-1700-000 through ST90-2120-000]**

## United Texas Transmission Co.; Self-Implementing Transactions

March 29, 1990.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to part 284 of the Commission's regulations, sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA) and section 5 of the Outer Continental Shelf Lands Act.[1]

The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "part 284 subpart" column in the following table indicates the type of transaction.

A "B" indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to § 284.102 of the Commission's regulations and section 311(a)(1) of the NGPA.

A "C" indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.122 of the Commission's regulations and section 311(a)(2) of the NGPA.

A "D" indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.142 of the Commission's regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to § 284.163 of the Commission's regulations and section 312 of the NGPA.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.222 and a blanket certificate issued under § 284.221 of the Commission's regulations.

A "G-S" indicates transportation by interstate pipelines on behalf of shippers other than interstate pipelines pursuant to § 284.223 and a blanket certificate issued under § 284.221 of the Commission's regulations.

A "G-LT" or "G-LS" indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under § 284.224 of the Commission's regulations.

A "G-HT" or "G-HS" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.224 of the Commission's regulations.

A "K" indicates transportation of natural gas on the Outer Continental Shelf by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.303 of the Commission's regulations.

A "K-S" indicates transportation of natural gas on the Outer Continental Shelf by an intrastate pipeline on behalf of shippers other than interstate pipelines pursuant to § 284.303 of the Commission's regulations.

**Lois D. Cashell,**

*Secretary.*

[1] Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the noticed filing is in compliance with the Commission's regulations.

| Docket number [1] | Transporter/seller | Recipient | Date filed | Part 284 subpart | Est. max. daily quantity [2] |
|---|---|---|---|---|---|
| ST90-1700 | United Texas Transmission Co. | United Gas Pipe Line Co., et al. | 02-01-90 | C | 100,000 |
| ST90-1701 | Questar Pipeline Co | Thermal Exploration, Inc. | 02-01-90 | G-S | 2,750 |
| ST90-1702 | Tennessee Gas Pipeline Co. | Southern Natural Gas Co. | 02-01-90 | G | 75,000 |
| ST90-1703 | Midwestern Gas Transmission Co. | Northern Illinois Gas Co. | 02-01-90 | B | 20,000 |
| ST90-1704 | Transcontinental Gas Pipe Line Corp. | Exxon Corp. | 02-01-90 | G-S | 805,000 |
| ST90-1705 | Natural Gas Pipeline Co. of America | Quantum Chemical Corp. | 02-01-90 | G-S | 45,000 |
| ST90-1706 | Natural Gas Pipeline Co. of America | Panda Resources, Inc. | 02-01-90 | G-S | 25,000 |
| ST90-1707 | Natural Gas Pipeline Co. of America | Continental Natural Gas, Inc. | 02-01-90 | G-S | 50,000 |
| ST90-1708 | Louisiana Resources Co. | Southern Natural Gas Co. | 02-01-90 | C | 75,000 |
| ST90-1709 | Trunkline Gas Co. | National Steel Corp. | 02-01-90 | G-S | 6,500 |
| ST90-1710 | Valero Transmission, L.P. | El Paso Natural Gas Co. | 02-01-90 | C | 21,000 |
| ST90-1711 | Transtexas Pipeline | El Paso Natural Gas Co. | 02-01-90 | C | 2,400 |
| ST90-1712 | Valero Interstate Transmission Co. | Valero Transmission, L.P. | 02-01-90 | B | 850,000 |
| ST90-1713 | Northwest Pipeline Corp. | ANR Pipeline Co. | 02-01-90 | G | 40,000 |
| ST90-1714 | Gulf States Pipeline Corp. | Mississippi River Trans. Co., et al | 02-01-90 | C | 30,000 |
| ST90-1715 | Southern Natural Gas Co. | Prior Intrastate Corp. | 02-01-90 | B | 150,000 |
| ST90-1716 | Williams Natural Gas Co. | Vesta Energy Co. | 02-01-90 | G-S | 30,000 |
| ST90-1717 | Williams Natural Gas Co. | Leann Gas Co. | 02-01-90 | B | 1,100 |
| ST90-1718 | Williams Natural Gas Co. | American Central Gas Marketing Co. | 02-01-90 | G-S | 100 |
| ST90-1719 | ANR Pipeline Co. | Michigan Consolidated Gas Co. | 02-01-90 | B | 75,000 |
| ST90-1720 | ANR Pipeline Co | Michigan Gas Utilities Co. | 02-01-90 | B | 200 |
| ST90-1721 | ANR Pipeline Co. | Ladd Gas Marketing | 02-01-90 | G-S | 100,000 |
| ST90-1722 | United Gas Pipe Line Co. | NASA/John C. Stennis Space Center | 02-01-90 | G-S | 618 |
| ST90-1723 | United Gas Pipe Line Co. | Texaco Gas Marketing, Inc. | 02-01-90 | G-S | 10,300 |
| ST90-1724 | United Gas Pipe Line Co. | Phibro Distributors Corp. | 02-01-90 | G-S | 309,000 |
| ST90-1725 | United Gas Pipe Line Co. | Total Minatome Corp. | 02-01-90 | G-S | 103,000 |
| ST90-1726 | United Gas Pipe Line Co. | Victoria Gas Corp. | 02-01-90 | G-S | 103,000 |
| ST90-1727 | Valero Transmission, L.P. | El Paso Natural Gas Co. | 02-02-90 | C | 3,000 |
| ST90-1728 | Valero Transmission, L.P. | Texas Eastern Gas Pipeline Co. | 02-02-90 | C | 2,000 |
| ST90-1729 | Natural Gas Pipeline Co. of America | Amoco Production Co. | 02-02-90 | G-S | 75,000 |
| ST90-1730 | ANR Pipeline Co. | Northern Indiana Public Service Co. | 02-02-90 | B | 3,000 |
| ST90-1731 | ANR Pipeline Co. | Midwest Gas Co. | 02-02-90 | B | 5,000 |
| ST90-1732 | ANR Pipeline Co. | East Ohio Gas Co. | 02-02-90 | B | 100,000 |
| ST90-1733 | ANR Pipeline Co. | Elf Aquitaine Operating Inc. | 02-02-90 | G-S | 75,000 |
| ST90-1734 | Tennessee Gas Pipeline Co. | East Tennessee Natural Gas Co. | 02-02-90 | G | 1,000,000 |
| ST90-1735 | Tennessee Gas Pipeline Co. | Texline Gas Co. | 02-02-90 | B | 5,000 |
| ST90-1736 | Tennessee Gas Pipeline Co. | Humphreys County Utility District | 02-02-90 | B | 500,000 |
| ST90-1737 | Trunkline Gas Co. | Transamerican Gas Transmission Corp. | 02-02-90 | B | 200,000 |
| ST90-1738 | Sea Robin Pipeline Co. | Bishop Pipeline Corp. | 02-02-90 | B | 8,240 |
| ST90-1739 | Sea Robin Pipeline Co. | Elf Aquitaine Operating Inc. | 02-02-90 | G-S | 25,750 |
| ST90-1740 | United Gas Pipe Line Co. | Equitable Resources Marketing Co. | 02-02-90 | G-S | 5,150 |
| ST90-1741 | Tomcat | Texas Eastern Trans. Corp., et al. | 02-05-90 | C | 13,461 |
| ST90-1742 | El Paso Natural Gas Co. | Marathon Oil Co. | 02-05-90 | G-S | 123,600 |
| ST90-1743 | Midwestern Gas Transmission Co. | Northern Illinois Gas Co. | 02-05-90 | B | 30,000 |
| ST90-1744 | Midwestern Gas Transmission Co. | Northern Illinois Gas Co. | 02-05-90 | B | 10,000 |
| ST90-1745 | Texas Gas Transmission Corp. | Tejas Power Corp. | 02-05-90 | G-S | 100,000 |
| ST90-1746 | Texas Gas Transmission Corp. | Texaco Gas Marketing, Inc. | 02-05-90 | G-S | 40,000 |
| ST90-1747 | Texas Gas Transmission Corp. | Coastal Gas Marketing Co. | 02-05-90 | G-S | 200,000 |
| ST90-1748 | Tennessee Gas Pipeline Co. | Pennsylvania and Southern Gas Co. | 02-05-90 | B | 1,000,000 |
| ST90-1749 | Tennessee Gas Pipeline Co. | Mississippi Fuel Co. | 02-05-90 | B | 20,000 |
| ST90-1750 | Tennessee Gas Pipeline Co. | East Ohio Gas Co. | 02-05-90 | B | 1,000,000 |
| ST90-1751 | Transcontinental Gas Pipe Line Corp. | City of Covington | 02-05-90 | B | 78,500 |
| ST90-1752 | Transcontinental Gas Pipe Line Corp. | Pontchartrain Natural Gas System | 02-05-90 | B | 290,000 |
| ST90-1753 | Arkla Energy Resources | Phillips Natural Gas Co. | 02-05-90 | B | 10,000 |
| ST90-1754 | United Gas Pipe Line Co. | Shell Gas Trading Co. | 02-05-90 | G-S | 61,800 |
| ST90-1755 | United Gas Pipe Line Co. | Transco Energy Marketing Co. | 02-05-90 | G-S | 309,000 |
| ST90-1756 | Valero Transmission, L.P. | El Paso Natural Gas Co. | 02-06-90 | C | 50,000 |
| ST90-1757 | Natural Gas Pipeline Co. of America | ENOGEX Service Corp. | 02-06-90 | G-S | 50,000 |
| ST90-1758 | Natural Gas Pipeline Co. of America | Texaco Gas Marketing, Inc. | 02-06-90 | G-S | 200,000 |
| ST90-1759 | Pacific Gas Transmission Co. | Pacific Gas and Electric Co. | 02-06-90 | B | 180,000 |
| ST90-1760 | Columbia Gulf Transmission Co. | Elf Exploration, Inc. | 02-06-90 | G-S | 12,000 |
| ST90-1761 | Columbia Gas Transmission Corp. | Victory Energy Development Co. | 02-06-90 | G-S | 1,600 |
| ST90-1762 | Midwestern Gas Transmission Co. | Connecticut Natural Gas Co. | 02-06-90 | B | 51,300 |
| ST90-1763 | Midwestern Gas Transmission Co. | Costal States Transmission Co. | 02-06-90 | B | 400,000 |
| ST90-1764 | Midwestern Gas Transmission Co. | Amoco Gas Co. | 02-06-90 | B | 150,000 |
| ST90-1765 | El Paso Natural Gas Co. | TPC Pipeline Inc. | 02-07-90 | B | 14,420 |
| ST90-1766 | Algonquin Gas Transmission Co. | Connecticut Natural Gas Co. | 02-07-90 | B | 14,639 |
| ST90-1767 | Questar Pipeline Co. | Consumers Power Co. | 02-07-90 | B | 9,000 |
| ST90-1768 | United Gas Pipe Line Co. | Coastal Gas Marketing Co. | 02-07-90 | G-S | 30,900 |
| ST90-1769 | United Gas Pipe Line Co. | Bridgeline Gas Distribution Co. | 02-07-90 | B | 10,300 |
| ST90-1770 | Williams Natural Gas Co. | Mobil Natural Gas, Inc. | 02-07-90 | G-S | 20,000 |
| ST90-1771 | Williams Natural Gas Co. | Reliance Gas Pipeline Co. | 02-07-90 | B | 300 |
| ST90-1772 | Tennessee Gas Pipeline Co. | Cincinnati Gas and Electric Co. | 02-07-90 | B | 250,000 |
| ST90-1773 | Valero Transmission, L.P. | El Paso Natural Gas Co. | 02-08-90 | C | 10,000 |
| ST90-1774 | Valero Tansmission, L.P. | Valero Interstate Transmission Co. | 02-08-90 | C | 10,000 |
| ST90-1775 | El Paso Natural Gas Co. | Conoco, Inc. | 02-08-90 | G-S | 5,150 |
| ST90-1776 | Maple Gathering Corp. (The) | Natural Gas Pipeline Co. of America | 02-08-90 | C | 10,000 |
| ST90-1777 | Channel Industries Gas Co. | Tennessee Gas Pipeline Co. | 02-08-90 | C | 75,000 |
| ST90-1778 | Tennessee Gas Pipeline Co. | Natural Gas and Oil Corp. | 02-08-90 | B | 1,000,000 |
| ST90-1779 | Tennessee Gas Pipeline Co. | Columbia Gas Transmission Corp. | 02-08-90 | G | 55,000 |

| Docket number [1] | Transporter/seller | Recipient | Date filed | Part 284 subpart | Est. max. daily quantity [2] |
|---|---|---|---|---|---|
| ST90-1780 | Black Marlin Pipeline Co. | Houston Pipe Line Co. | 02-08-90 | B | 25,000 |
| ST90-1781 | Delhi Gas Pipeline Corp. | Natural Gas Pipeline Co. of America | 02-08-90 | C | 5,000 |
| ST90-1782 | Delhi Gas Pipeline Corp. | Texas Eastern Transmission Corp. | 02-08-90 | C | 500 |
| ST90-1783 | Transwestern Pipeline Co. | Prairie Gas Transportation Co. | 02-08-90 | B | 50,000 |
| ST90-1784 | Transcontinental Gas Pipe Line Corp. | Transco Energy Marketing Co. | 02-08-90 | G-S | 40,000 |
| ST90-1785 | Panhandle Eastern Pipe Line Co. | PSI, Inc. | 02-08-90 | G-S | 5,500 |
| ST90-1786 | Panhandle Eastern Pipe Line Co. | Central Illinois Light Co. | 02-08-90 | B | 11,435 |
| ST90-1787 | Panhandle Eastern Pipe Line Co. | Central Illinois Light Co. | 02-08-90 | B | 17,887 |
| ST90-1788 | Mississippi Rivert Transmission Corp. | Texaco Gas Marketing, Inc. | 02-08-90 | G-S | 200,000 |
| ST90-1789 | Mississippi River Transmission Corp. | Northern Illinois Gas Co. | 02-08-90 | B | 30,000 |
| ST90-1790 | Mississippi River Transmission Corp. | Bishop Pipeline Corp. | 02-08-90 | G-S | 98,358 |
| ST90-1791 | Mississippi River Transmission Corp. | Rangeline Corp. | 02-08-90 | G-S | 50,000 |
| ST90-1792 | Mississippi River Transmission Corp. | Consolidated Fuel Corp | 02-08-90 | G-S | 40,000 |
| ST90-1793 | Mississippi River Transmission Corp. | System Supply for End-Users, Inc. | 02-08-90 | G-S | 40,000 |
| ST90-1794 | Mississippi River Transmission Corp. | Jefferson Smurfit Corp. | 02-08-90 | G-S | 10,500 |
| ST90-1795 | Mississippi River Transmission Corp. | Polaris Pipeline Co. | 02-08-90 | G-S | 20,000 |
| ST90-1796 | Mississippi River Transmission Corp. | Unicorp Energy, Inc. | 02-08-90 | G-S | 28,500 |
| ST90-1797 | Mississippi River Transmission Corp. | Seagull Marketing Services, Inc. | 02-08-90 | G-S | 200,000 |
| ST90-1798 | United Gas Pipe Line Co. | Fina Oil and Chemical Co. | 02-08-90 | G-S | 61,800 |
| ST90-1799 | United Gas Pipe Line Co. | Graham Energy Marketing Co. | 02-08-90 | G-S | 123,600 |
| ST90-1800 | United Gas Pipe Line Co. | Gulf South Pipeline Co. | 02-08-90 | G-S | 309,000 |
| ST90-1801 | United Gas Pipe Line Co. | Kerr-McGee Corp. | 02-08-90 | G-S | 92,700 |
| ST90-1802 | United Gas Pipe Line Co. | Sun Operating Limited Partnership | 02-08-90 | G-S | 61,800 |
| ST90-1803 | Sea Robin Pipeline Co. | Baltimore Gas & Electric Co., et al. | 02-08-90 | B | 22,660 |
| ST90-1804 | Columbia Gas Transmission Corp. | Fuel Services Group | 02-08-90 | G-S | 1,850 |
| ST90-1805 | Delhi Gas Pipeline Corp. | Natural Gas Pipeline Co. of America | 02-09-90 | C | 16,000 |
| ST90-1806 | Delhi Gas Pipeline Corp. | UGI Corp. | 02-09-90 | C | 6,000 |
| ST90-1807 | Westar Transmission Co. | ANR Pipeline Co., et al. | 02-09-90 | C | 9,200 |
| ST90-1808 | Natural Gas Pipeline Co. of America | Richardson Products Co. | 02-09-90 | G-S | 50,000 |
| ST90-1809 | Natural Gas Pipeline Co. of America | Acacia Gas Corp. | 02-09-90 | G-S | 65,000 |
| ST90-1810 | Tennessee Gas Pipeline Co. | Texas Gas Transmission Corp. | 02-09-90 | G | 3,000 |
| ST90-1811 | United Gas Pipe Line Co. | Fina Oil and Chemical Co. | 02-09-90 | G-S | 61,800 |
| ST90-1812 | Northwest Pipeline Corp. | LFC Gas Co. | 02-09-90 | G-S | 5,000 |
| ST90-1813 | ANR Pipeline Co. | Union Exploration Partners, Ltd. | 02-09-90 | G-S | 50,000 |
| ST90-1814 | ANR Pipeline Co. | Longhorn Pipeline Co. | 02-09-90 | B | 75,000 |
| ST90-1815 | Texas Gas Transmission Corp. | Valero Transmission, L.P. | 02-12-90 | B | 150,000 |
| ST90-1816 | Natural Gas Pipeline Co. of America | Phillips 66 Natural Gas Co. | 02-12-90 | G-S | 5,000 |
| ST90-1817 | ENOGEX Inc. | ARKLA Energy Resources | 02-12-90 | C | 45,000 |
| ST90-1818 | ENOGEX Inc. | Natural Gas Pipeline Co. of America | 02-12-90 | C | 100,000 |
| ST90-1819 | ENOGEX Inc. | Panhandle Eastern Pipe Line Co. | 02-12-90 | C | 5,300 |
| ST90-1820 | ENOGEX Inc. | Panhandle Eastern Pipe Line Co. | 02-12-90 | C | 50,000 |
| ST90-1821 | ENOGEX Inc. | Williams Natural Gas Co. | 02-12-90 | C | 45,000 |
| ST90-1822 | Cavallo Pipeline Co. | Seagull Interstate Corp. | 02-12-90 | C | 10,000 |
| ST90-1823 | Seagull Interstate Corp. | Cavallo Pipeline Co. | 02-12-90 | B | 10,000 |
| ST90-1824 | Tennessee Gas Pipeline Co. | Columbia Gulf Transmission Co. | 02-12-90 | G | 10,113 |
| ST90-1825 | Tennessee Gas Pipeline Co. | Columbia Gulf Transmission Co. | 02-12-90 | G | 10,113 |
| ST90-1826 | Trunkline Gas Co. | Central Illinois Light Co. | 02-12-90 | B | 500 |
| ST90-1827 | Trunkline Gas Co. | Central Illinois Light Co. | 02-12-90 | B | 500 |
| ST90-1828 | Trunkline Gas Co. | V.H.C. Gas System, L.P. | 02-12-90 | G-S | 200,000 |
| ST90-1829 | Trunkline Gas Co. | National Steel Corp. | 02-12-90 | G-S | 67,000 |
| ST90-1830 | Trunkline Gas Co. | Coastal Gas Marketing Co. | 02-12-90 | G-S | 100,000 |
| ST90-1831 | Trunkline Gas Co. | Alabama Gas Corp. | 02-12-90 | B | 50,000 |
| ST90-1832 | Delhi Gas Pipeline Corp. | Natural Gas Pipeline Co. of America | 02-12-90 | C | 10,000 |
| ST90-1833 | Natural Gas Pipeline Co. of America | NGC Transportation, Inc. | 02-12-90 | G-S | 75,000 |
| ST90-1834 | Mississippi River Transmission Corp. | Unifield Natural Gas Group, L.P. | 02-12-90 | G-S | 50,000 |
| ST90-1835 | Mississippi River Transmission Corp. | McDonnell Aircraft Co. | 02-12-90 | G-S | 4,500 |
| ST90-1836 | Mississippi River Transmission Corp. | Tejas Power Corp. | 02-12-90 | G-S | 100,000 |
| ST90-1837 | Mississippi River Transmission Corp. | Texas Industrial Energy Co. | 02-12-90 | B | 700,000 |
| ST90-1838 | Mississippi River Transmission Corp. | Access Energy Corp. | 02-12-90 | B | 50,000 |
| ST90-1839 | Mississippi River Transmission Corp. | Citizens Gas Supply Corp. | 02-12-90 | G-S | 437,750 |
| ST90-1840 | Mississippi River Transmission Corp. | Mobil Natural Gas, Inc. | 02-12-90 | G-S | 50,000 |
| ST90-1841 | Delhi Gas Pipeline Corp. | El Paso Natural Gas Co. | 02-13-90 | C | 50,000 |
| ST90-1842 | United Texas Transmission Co. | Natural Gas Pipeline Co. of America | 02-12-90 | C | 50,000 |
| ST90-1843 | Natural Gas Pipeline Co. of America | Mitchell Marketing Co. | 02-13-90 | G-S | 10,000 |
| ST90-1844 | Natural Gas Pipeline Co. of America | Public Service Electric and Gas Co. | 02-13-90 | B | 20,000 |
| ST90-1845 | ANR Pipeline Co. | ENTRADE Corp. | 02-13-90 | G-S | 100,000 |
| ST90-1846 | ANR Pipeline Co. | Ladd Gas Marketing | 02-13-90 | G-S | 100,000 |
| ST90-1847 | Sabine Pipe Line Co. | Northern Indiana Public Service Co. | 02-13-90 | B | 75,000 |
| ST90-1848 | Natural Gas Pipeline Co. of America | MIDCON Marketing Corp. | 02-13-90 | G-S | 300,000 |
| ST90-1849 | Tennessee Gas Pipeline Co. | T.W. Phillips Gas & Oil Co. | 02-13-90 | B | 3,200,000 |
| ST90-1850 | Tennessee Gas Pipeline Co. | Western Kentucky Gas Co. | 02-13-90 | B | 3,200,000 |
| ST90-1851 | Columbia Gulf Transmission Co. | Union Texas Products Corp. | 02-13-90 | G-S | 1,500 |
| ST90-1852 | Columbia Gas Transmission Corp. | NYCOTEX Gas Transport | 02-13-90 | G-S | 10,000 |
| ST90-1853 | Phillips Gas Pipeline Co. | Phillips Natural Gas Co. | 02-14-90 | B | 10,000 |
| ST90-1854 | Tennessee Gas Pipeline Co. | Northern Illinois Gas Co. | 02-14-90 | B | 700,000 |
| ST90-1855 | Northern Natural Gas Co. | CIBOLA Corp. | 02-14-90 | G-S | 10,000 |
| ST90-1856 | Northern Natural Gas Co. | Northern States Power Co. of Wisconsin | 02-14-90 | B | 7,500 |
| ST90-1857 | Northern Natural Gas Co. | Gas Energy Development | 02-14-90 | G-S | 150,000 |
| ST90-1858 | Mississippi River Transmission Corp. | Texas Industrial Energy Co. | 02-14-90 | B | 5,150 |
| ST90-1859 | Mississippi River Transmission Corp. | Texas Industrial Energy Co. | 02-14-90 | B | 4,120 |

| Docket number [1] | Transporter/seller | Recipient | Date filed | Part 284 subpart | Est. max. daily quantity [2] |
|---|---|---|---|---|---|
| ST90-1860 | Mississippi River Transmission Corp. | Texas Industrial Energy Co. | 02-14-90 | B | 1,030 |
| ST90-1861 | Mississippi River Transmission Corp. | Alumax Foils Inc. | 02-14-90 | G-S | 1,500 |
| ST90-1862 | Mississippi River Transmission Corp. | Texas Industrial Energy Co. | 02-14-90 | B | 4,120 |
| ST90-1863 | Mississippi River Transmission Corp. | Bishop Pipeline Corp. | 02-14-90 | G-S | 8,100 |
| ST90-1864 | Mississippi River Transmission Corp. | Graham Energy Marketing Co. | 02-14-90 | G-S | 124,000 |
| ST90-1865 | Mississippi River Transmission Corp. | Texas Industrial Energy Co. | 02-14-90 | B | 4,120 |
| ST90-1866 | Equitrans, Inc. | PSI, Inc. | 02-14-90 | G-S | 49,000 |
| ST90-1867 | Northwest Pipeline Corp. | Basic, Inc. | 02-14-90 | G-S | 2,500 |
| ST90-1868 | Mississippi River Transmission Corp. | PHIBRO Distributors Corp. | 02-15-90 | G-S | 250,000 |
| ST90-1869 | Mississippi River Transmission Corp. | TRANSCO Energy Marketing Co. | 02-15-90 | G-S | 150,000 |
| ST90-1870 | Southern Natural Gas Co. | International Paper Co. | 02-15-90 | G-S | 10,000 |
| ST90-1871 | Southern Natural Gas Co. | Diamond Shamrock Offshore Partners, L.P. | 02-15-90 | G-S | 120,000 |
| ST90-1872 | Southern Natural Gas Co. | Texican Natural Gas Co. | 02-15-90 | G-S | 30,000 |
| ST90-1873 | Southern Natural Gas Co. | Direct Gas Supply Transportation | 02-15-90 | G-S | 1,000 |
| ST90-1874 | Southern Natural Gas Co. | International Paper Co. | 02-15-90 | G-S | 40,000 |
| ST90-1875 | Southern Natural Gas Co. | Presidio Exploration, Inc. | 02-15-90 | G-S | 111 |
| ST90-1876 | Southern Natural Gas Co. | Brooklyn Interstate Natural Gas Corp. | 02-15-90 | G-S | 80,000 |
| ST90-1877 | Southern Natural Gas Co. | Entrade Corp. | 02-15-90 | G-S | 100,000 |
| ST90-1878 | Transcontinental Gas Pipe Line Corp. | Monterey Pipeline Co. | 02-15-90 | B | 725,000 |
| ST90-1879 | Green Canyon Pipe Line Co. | Transcontinental Gas Pipe Line Corp. | 02-15-90 | G | 600,000 |
| ST90-1880 | Louisiana Resources Co. | Bridgeline Gas Distribution Co. | 02-15-90 | C | 50,000 |
| ST90-1881 | United Gas Pipe Line Co. | Texaco Gas Marketing, Inc. | 02-15-90 | G-S | 41,200 |
| ST90-1882 | Sea Robin Pipeline Co. | Superior Natural Gas Corp. | 02-15-90 | G-S | 77,250 |
| ST90-1883 | Enserch Gas Transmission Co. | Trunkline Gas Co. | 02-16-90 | C | 10,000 |
| ST90-1884 | Valero Transmission, L.P. | Northern Natural Gas Co. | 02-16-90 | C | 200,000 |
| ST90-1885 | Tennessee Gas Pipeline Co. | Pennsylvania Gas and Water Co. | 02-16-90 | B | 12,000 |
| ST90-1886 | ANR Pipeline Co. | Midcon Marketing Corp. | 02-16-90 | G-S | 100,000 |
| ST90-1887 | ANR Pipeline Co. | Michigan Gas Utilities Co. | 02-16-90 | B | 1,000 |
| ST90-1888 | ANR Pipeline Co. | Unicorp Energy, Inc. | 02-16-90 | G-S | 100,000 |
| ST90-1889 | ANR Pipeline Co. | LEDCO, Inc. | 02-16-90 | G-S | 120,000 |
| ST90-1890 | ANR Pipeline Co. | Texpar Energy, Inc. | 02-16-90 | G-S | 50,000 |
| ST90-1891 | Texas Eastern Transmission Corp. | Columbia Gas Transmission Corp. | 02-16-90 | G | 526,000 |
| ST90-1892 | Texas Eastern Transmission Corp. | Louisiana State Gas Corp. | 02-16-90 | B | 200,000 |
| ST90-1893 | Texas Eastern Transmission Corp. | Transworld Oil USA, Inc. | 02-16-90 | G-S | 37,000 |
| ST90-1894 | Texas Eastern Transmission Corp. | Pargon Gas Corp. | 02-16-90 | G-S | 20,000 |
| ST90-1895 | Texas Eastern Transmission Corp. | Pargon Gas Corp. | 02-16-90 | G-S | 50,000 |
| ST90-1896 | Texas Eastern Transmission Corp. | Algonquin Gas Transmission Co. | 02-16-90 | G | 25,000 |
| ST90-1897 | Texas Eastern Transmission Corp. | Chevron U.S.A., Inc. | 02-16-90 | G-S | 1,800,000 |
| ST90-1898 | Texas Eastern Transmission Corp. | Mobil Natural Gas, Inc. | 02-16-90 | G-S | 400,000 |
| ST90-1899 | Texas Eastern Transmission Corp. | Exxon Corp. | 02-16-90 | G-S | 200,000 |
| ST90-1900 | United Gas Pipe Line Co. | Enermark Gas Gathering Corp. | 02-16-90 | G-S | 103,000 |
| ST90-1901 | ARKLA Energy Resources | ENOGEX, Inc. | 02-16-90 | B | 10,000 |
| ST90-1902 | ARKLA Energy Resources | Vesta Energy Co. | 02-16-90 | G-S | 50,000 |
| ST90-1903 | Williston Basin Interstate P/L Co. | Montana-Dakota Utilities Co. | 02-16-90 | B | 18,500 |
| ST90-1904 | Williston Basin Interstate P/L Co. | Coastal States Gas Transmission Co. | 02-16-90 | B | 15,450 |
| ST90-1905 | Natural Gas Pipeline Co. of America | City of Brazoria | 02-20-90 | B | 100,000 |
| ST90-1906 | Colorado Interstate Gas Co. | Associated Intrastate Pipeline Co. | 02-20-90 | B | 125 |
| ST90-1907 | Colorado Interstate Gas Co. | Northern Gas Co. of Wyoming | 02-20-90 | B | 2,000 |
| ST90-1908 | Colorado Interstate Gas Co. | Amoco Gas Co. | 02-20-90 | B | 50,000 |
| ST90-1909 | Green Canyon Pipe Line Co. | Transco Energy Marketing Co. | 02-20-90 | G-S | 90,000 |
| ST90-1910 | Green Canyon Pipe Line Co. | Texaco Gas Marketing, Inc. | 02-20-90 | G-S | 100,000 |
| ST90-1911 | Texas Gas Transmission Corp. | Hadson Gas Systems, Inc. | 02-20-90 | G-S | 40,000 |
| ST90-1912 | Panhandle Eastern Pipe Line Co. | Hadson Gas Systems, Inc. | 02-20-90 | G-S | 30,000 |
| ST90-1913 | United Gas Pipe Line Co. | Victoria Gas Corp. | 02-20-90 | G-S | 103,000 |
| ST90-1914 | United Gas Pipe Line Co. | Phibro Distributors Corp. | 02-20-90 | G-S | 309,000 |
| ST90-1915 | Mississippi River Transmission Corp. | BP Gas Transmission Co. | 02-20-90 | B | 100,000 |
| ST90-1916 | Mississippi River Transmission Corp. | CONOCO, Inc. | 02-20-90 | G-S | 50,000 |
| ST90-1917 | Mississippi River Transmission Corp. | Williams Gas Marketing Co. | 02-20-90 | G-S | 185,000 |
| ST90-1918 | Westar Transmission Co. | El Paso Natural Gas Co. | 02-21-90 | C | 30,000 |
| ST90-1919 | Columbia Gulf Transmission Co. | Columbia Gas of Ky, Inc., et al. | 02-20-90 | B | 150,000 |
| ST90-1920 | Columbia Gulf Transmission Co. | Baltimore Gas & Electric Co., et al. | 02-20-90 | B | 50,000 |
| ST90-1921 | Columbia Gulf Transmission Co. | Central Illinois Light Co., et al. | 02-20-90 | B | 75,000 |
| ST90-1922 | Columbia Gulf Transmission Co. | Brooklyn Union Gas Co., et al. | 02-20-90 | B | 130,000 |
| ST90-1923 | Columbia Gas Transmission Corp. | Orwell Natural Gas Co. | 02-20-90 | B | 6,000 |
| ST90-1924 | Columbia Gas Transmission Corp. | Equitable Resources Marketing Co. | 02-20-90 | G-S | 120,000 |
| ST90-1925 | Channel Industries Gas Co. | Tennessee Gas Pipeline Co. | 02-20-90 | C | 5,000 |
| ST90-1926 | Channel Industries Gas Co. | Transwestern Pipeline Co., et al. | 02-20-90 | C | 100,000 |
| ST90-1927 | Channel Industries Gas Co. | Tennessee Gas Pipeline Co. | 02-20-90 | C | 40,000 |
| ST90-1928 | Tenngasco Gas Supply Co. | Transwestern Pipeline Co., et al. | 02-20-90 | C | 100,000 |
| ST90-1929 | Northern Border Pipeline Co. | Northern Natural Gas Co. | 02-21-90 | G | 100,000 |
| ST90-1930 | Colorado Interstate Gas Co. | Coastal States Gas Transmission Co. | 02-21-90 | B | 50,000 |
| ST90-1931 | Colorado Interstate Gas Co. | Llano, Inc. | 02-21-90 | B | 600 |
| ST90-1932 | Colorado Interstate Gas Co. | Anadarko Trading Co. | 02-21-90 | G-S | 25,000 |
| ST90-1933 | Trunkline Gas Co. | American Central Gas Marketing Co. | 02-21-90 | G-S | 150,000 |
| ST90-1934 | Trunkline Gas Co. | Manville Sales Corp. | 02-21-90 | G-S | 30,000 |
| ST90-1935 | Trunkline Gas Co. | AMGAS, Inc. | 02-21-90 | G-S | 440 |
| ST90-1936 | Trunkline Gas Co. | Sun Operating Limited Partnership | 02-21-90 | G-S | 100,000 |
| ST90-1937 | Trunkline Gas Co. | PSI, Inc. | 02-21-90 | G-S | 150,000 |
| ST90-1938 | Trunkline Gas Co. | Brooklyn Interstate Natural Gas Corp. | 02-21-90 | G-S | 80,000 |
| ST90-1939 | Trunkline Gas Co. | Coast Energy Group, Inc. | 02-21-90 | G-S | 35,000 |

| Docket number [1] | Transporter/seller | Recipient | Date filed | Part 284 subpart | Est. max. daily quantity [2] |
|---|---|---|---|---|---|
| ST90-1940 | Trunkline Gas Co. | Amoco Energy Trading Corp. | 02-21-90 | G-S | 61,450 |
| ST90-1941 | Trunkline Gas Co. | Coastal GAs Marketing Co. | 02-21-90 | G-S | 100,000 |
| ST90-1942 | Trunkline Gas Co. | UNICORP Energy, Inc. | 02-21-90 | G-S | 100,000 |
| ST90-1943 | Mississippi River Transmission Corp. | Trans Marketing Houston, Inc. | 02-21-90 | G-S | 300,000 |
| ST90-1944 | Mississippi River Transmission Corp. | Enron Gas Marketing | 02-21-90 | G-S | 100,000 |
| ST90-1945 | Mississippi River Transmission Corp. | Anheuser Busch | 02-21-90 | G-S | 3,588 |
| ST90-1946 | Mississippi River Transmission Corp. | Direct Gas Supply Transportation | 02-21-90 | G-S | 25,000 |
| ST90-1947 | Mississippi River Transmission Corp. | CENTRAN Corp. | 02-21-90 | G-S | 30,000 |
| ST90-1948 | Mississippi River Transmission Corp. | KAZTEX Energy Management, Inc. | 02-21-90 | G-S | 30,000 |
| ST90-1949 | Mississippi River Transmission Corp. | SPX Corp. | 02-21-90 | G-S | 14,120 |
| ST90-1950 | United Gas Pipe Line Co. | Texaco, Inc. | 02-21-90 | G-S | 51,500 |
| ST90-1951 | United Gas Pipe Line Co. | Catamount Natural Gas, Inc. | 02-21-90 | G-S | 103,000 |
| ST90-1952 | United Gas Pipe Line Co. | Texaco Gas Marketing, Inc. | 02-21-90 | G-S | 360,500 |
| ST90-1953 | Phillips Gas Pipeline Co. | Phillips Natural Gas Co. | 02-22-90 | B | 10,000 |
| ST90-1954 | CNG Transmission Corp. | Cranberry Pipeline Corp. | 02-22-90 | B | 30,000 |
| ST90-1955 | Tennessee Gas Pipeline Co. | SIPCO Gas Transmission Corp. | 02-22-90 | B | 50,000 |
| ST90-1956 | Tennessee Gas Pipeline Co. | National Fuel Gas Supply Corp. | 02-22-90 | G | 41,488 |
| ST90-1957 | Tennessee Gas Pipeline Co. | Louis Dreyfuss Energy Corp. | 02-22-90 | G-S | 100,000 |
| ST90-1958 | Tennessee Gas Pipeline Co. | Miami Valley Resources, Inc. | 02-22-90 | G-S | 20,000 |
| ST90-1959 | Tennessee Gas Pipeline Co. | Columbia Gas Transmission Corp. | 02-22-90 | G | 400,000 |
| ST90-1960 | United Gas Pipe Line Co. | Louis Dreyfuss Energy Corp. | 02-22-90 | G-S | 103,000 |
| ST90-1961 | United Gas Pipe Line Co. | Louisiana-Nevada Transit Co. | 02-22-90 | G | 61 |
| ST90-1962 | United Gas Pipe Line Co. | Gulf South Pipeline Co. | 02-22-90 | B | 103,000 |
| ST90-1963 | United Gas Pipe Line Co. | Amoco Production Co. | 02-22-90 | G-S | 312,090 |
| ST90-1964 | United Gas Pipe Line Co. | CONOCO, Inc. | 02-22-90 | G-S | 18,540 |
| ST90-1965 | United Gas Pipe Line Co. | Laser Marketing Co. | 02-22-90 | G-S | 618,000 |
| ST90-1966 | United Gas Pipe Line Co. | Laser Marketing Co. | 02-22-90 | G-S | 618,000 |
| ST90-1967 | ARKLA Energy Resources | Louisiana Intrastate Gas Pipeline Corp. | 02-22-90 | B | 55,000 |
| ST90-1968 | ARKLA Energy Resources | Premier Gas Co. | 02-22-90 | G-S | 60,000 |
| ST90-1969 | ARKLA Energy Resources | Laclede Gas Co. | 02-22-90 | B | 50,000 |
| ST90-1970 | Williston Basin Interstate P/L Co. | Montana-Dakota Utilities Co. | 02-22-90 | B | 141,887 |
| ST90-1971 | Williston Basin Interstate P/L Co. | Quivira Gas Co. | 02-22-90 | B | 174,335 |
| ST90-1972 | Williston Basin Interstate P/L Co. | MGTC, Inc. | 02-22-90 | B | 279,937 |
| ST90-1973 | Williston Basin Interstate P/L Co. | Amerada Hess Corp. | 02-22-90 | G-S | 550 |
| ST90-1974 | Williston Basin Interstate P/L Co. | Marathon Oil Co. | 02-22-90 | G-S | 1,020 |
| ST90-1975 | Williston Basin Interstate P/L Co. | Montana-Dakota Utilities Co. | 02-22-90 | B | 1,400 |
| ST90-1976 | Acadian Gas Pipeline System | Sabine Pipe Line Co. | 02-22-90 | C | 350 |
| ST90-1977 | Acadian Gas Pipeline System | Sabine Pipe Line Co. | 02-22-90 | C | 15,000 |
| ST90-1978 | Williams Natural Gas Co. | Gastrak Corp. | 02-22-90 | G-S | 500 |
| ST90-1979 | Williams Natural Gas Co. | Miami Pipeline Co. | 02-22-90 | B | 5,812 |
| ST90-1980 | Equitrans, Inc. | Angerman Associates, Inc. | 02-22-90 | G-S | 392 |
| ST90-1981 | K N Energy, Inc. | Amarillo Natural Gas Utility | 02-23-90 | B | 400 |
| ST90-1982 | Rocky Mountain Natural Gas Co., Inc. | Northern Natural Gas Co. | 02-23-90 | G-HT | 4,000 |
| ST90-1983 | Natural Gas Pipeline Co. of America | Texas-Ohio Gas, Inc. | 02-23-90 | G-S | 5,000 |
| ST90-1984 | ANR Pipeline Co. | Consolidated Fuel Corp. | 02-23-90 | G-S | 15,000 |
| ST90-1985 | ANR Pipeline Co. | Coastal Gas Marketing Co. | 02-23-90 | G-S | 100,000 |
| ST90-1986 | ANR Pipeline Co. | Delhi Gas Pipeline Corp. | 02-23-90 | B | 6,000 |
| ST90-1987 | ANR Pipeline Co. | Ohio Gas Co. | 02-23-90 | B | 600 |
| ST90-1988 | ANR Pipeline Co. | Brooklyn Interstate Natural Gas Corp. | 02-23-90 | G-S | 100,000 |
| ST90-1989 | Tennessee Gas Pipeline Co. | Jaywell Energy Corp. | 02-23-90 | G-S | 75,000 |
| ST90-1990 | Texas Eastern Transmission Corp. | Texas Eastern Gas Services Co. | 02-23-90 | G-S | 1,300,000 |
| ST90-1991 | Texas Eastern Transmission Corp. | Citizens Gas Supply Corp. | 02-23-90 | G-S | 1,475,360 |
| ST90-1992 | United Gas Pipe Line Co. | Texican Natural Gas Co. | 02-23-90 | G-S | 20,600 |
| ST90-1993 | Northwest Pipeline Corp. | Phillips Petroleum Co. | 02-23-90 | G-S | 65,000 |
| ST90-1994 | Columbia Gas Transmission Corp. | Entrade Corp. | 02-23-90 | G-S | 75,000 |
| ST90-1995 | Trunkline Gas Co. | City of Vienna | 02-26-90 | B | 2,000 |
| ST90-1996 | Trunkline Gas Co. | Access Energy Pipeline Corp. | 02-26-90 | B | 50,000 |
| ST90-1997 | Trunkline Gas Co. | Louisiana Gas Marketing Co. | 02-26-90 | B | 40,000 |
| ST90-1998 | Trunkline Gas Co. | Nycotex Gas Transport | 02-26-90 | B | 25,000 |
| ST90-1999 | Trunkline Gas Co. | Columbia Gas of Kentucky, Inc. | 02-26-90 | B | 1,000 |
| ST90-2000 | Trunkline Gas Co. | PSI, Inc. | 02-26-90 | G-S | 250,000 |
| ST90-2001 | Trunkline Gas Co. | City of Louisville | 02-26-90 | B | 2,000 |
| ST90-2002 | Trunkline Gas Co. | Michigan Gas Utilities Co. | 02-26-90 | B | 119 |
| ST90-2003 | Trunkline Gas Co. | Michigan Gas Utilities Co. | 02-26-90 | B | 317 |
| ST90-2004 | Trunkline Gas Co. | Michigan Gas Utilities Co. | 02-26-90 | B | 374 |
| ST90-2005 | Trunkline Gas Co. | Michigan Gas Utilities Co. | 02-26-90 | B | 733 |
| ST90-2006 | Transcontinental Gas Pipe Line Corp. | Kerr-McGee Corp. | 02-26-90 | G-S | 420,200 |
| ST90-2007 | Transcontinental Gas Pipe Line Corp. | Transco Energy Marketing Co. | 02-26-90 | G-S | 100,000 |
| ST90-2008 | High Island Offshore System | BP Gas Inc. | 02-26-90 | K-S | 8,250 |
| ST90-2009 | Panhandle Eastern Pipe Line Co. | AMGAS, Inc. | 02-26-90 | G-S | 5,000 |
| ST90-2010 | Panhandle Eastern Pipe Line Co. | Thompson Valley Gas, Inc. | 02-26-90 | G-S | 10,000 |
| ST90-2011 | Panhandle Eastern Pipe Line Co. | Anadarko Trading Co. | 02-26-90 | G-S | 10,000 |
| ST90-2012 | Panhandle Eastern Pipe Line Co. | Meridian Oil Trading, Inc. | 02-26-90 | G-S | 40,000 |
| ST90-2013 | Panhandle Eastern Pipe Line Co. | Anadarko Trading Co. | 02-26-90 | G-S | 3,500 |
| ST90-2014 | Panhandle Eastern Pipe Line Co. | Amoco Energy Trading Corp. | 02-26-90 | G-S | 60,600 |
| ST90-2015 | Panhandle Eastern Pipe Line Co. | Thompson Valley Gas, Inc. | 02-26-90 | G-S | 5,000 |
| ST90-2016 | Panhandle Eastern Pipe Line Co. | Ohio Gas Co. | 02-26-90 | B | 6,663 |
| ST90-2017 | Panhandle Eastern Pipe Line Co. | NGC Intrastate Pipeline Co. | 02-26-90 | B | 5,000 |
| ST90-2018 | ANR Pipeline Co. | Kaztex Energy Management, Inc. | 02-26-90 | G-S | 1,734 |
| ST90-2019 | ANR Pipeline Co. | Bridgeline Gas Distribution Co. | 02-26-90 | B | 100,000 |

| Docket number [1] | Transporter/seller | Recipient | Date filed | Part 284 subpart | Est. max. daily quantity [2] |
|---|---|---|---|---|---|
| ST90-2020 | ANR Pipeline Co. | Entrade Corp. | 02-26-90 | G-S | 100,000 |
| ST90-2021 | ANR Pipeline Co. | Coastal States Gas Transmission Co. | 02-26-90 | B | 600,000 |
| ST90-2022 | ANR Pipeline Co. | Coastal Gas Marketing Co. | 02-26-90 | G-S | 300,000 |
| ST90-2023 | Williston Basin Interstate P/L Co. | Associated Intrastate Pipeline Co. | 02-26-90 | B | 86,100 |
| ST90-2024 | Williston Basin Interstate P/L Co. | Montana-Dakota Utilities Co. | 02-26-90 | B | 220 |
| ST90-2025 | Williston Basin Interstate P/L Co. | Northern Gas of Wyoming | 02-26-90 | B | 65,000 |
| ST90-2026 | Transtexas Pipeline | Transwestern Pipeline Co. | 02-26-90 | C | 15,000 |
| ST90-2027 | Valero Transmission, L.P. | Transwestern Pipeline Co. | 02-26-90 | C | 15,000 |
| ST90-2028 | Valero Transmission, L.P. | United Gas Pipe Line Co. | 02-26-90 | C | 5,000 |
| ST90-2029 | Arkla Energy Resources | Coastal States Gas Transmission Co. | 02-26-90 | B | 100,000 |
| ST90-2030 | Oasis Pipe Line Co. | El Paso Natural Gas Co. | 02-26-90 | C | 50,000 |
| ST90-2031 | Oasis Pipe Line Co. | El Paso Natural Gas Co. | 02-26-90 | C | 5,000 |
| ST90-2032 | Oasis Pipe Line Co. | Transwestern Pipeline Co. | 02-26-90 | C | 25,000 |
| ST90-2033 | Oasis Pipe Line Co. | Transwestern Pipeline Co. | 02-26-90 | C | 50,000 |
| ST90-2034 | Oasis Pipe Line Co. | Northern Natural Gas Co. | 02-26-90 | C | 50,000 |
| ST90-2035 | Oasis Pipe Line Co. | El Paso Natural Gas Co. | 02-26-90 | C | 50,000 |
| ST90-2036 | Oasis Pipe Line Co. | El Paso Natural Gas Co. | 02-26-90 | C | 10,000 |
| ST90-2037 | Houston Pipe Line Co. | Tennessee Gas Pipeline Co. | 02-26-90 | C | 20,000 |
| ST90-2038 | Houston Pipe Line Co. | El Paso Natural Gas Co. | 02-26-90 | C | 10,000 |
| ST90-2039 | Houston Pipe Line Co. | Natural Gas Pipeline Co. of America | 02-26-90 | C | 35,000 |
| ST90-2040 | Houston Pipe Line Co. | Northern Natural Gas Co. | 02-26-90 | C | 50,000 |
| ST90-2041 | Houston Pipe Line Co. | Phillips Gas Pipeline Co. | 02-26-90 | C | 15,000 |
| ST90-2042 | Houston Pipe Line Co. | Transcontinental Gas Pipe Line Corp. | 02-26-90 | C | 300,000 |
| ST90-2043 | Houston Pipe Line Co. | Transcontinental Gas Pipe Line Corp. | 02-26-90 | C | 40,000 |
| ST90-2044 | Houston Pipe Line Co. | Northern Natural Gas Co. | 02-26-90 | C | 26,000 |
| ST90-2045 | Houston Pipe Line Co. | United Gas Pipe Line Co. | 02-26-90 | C | 50,000 |
| ST90-2046 | Houston Pipe Line Co. | Florida Gas Transmission Co. | 02-26-90 | C | 50,000 |
| ST90-2047 | Houston Pipe Line Co. | United Gas Pipe Line Co. | 02-26-90 | C | 10,000 |
| ST90-2048 | Tennessee Gas Pipeline Co. | Natural Gas Pipeline Co. of America | 02-27-90 | G | 1,000,000 |
| ST90-2049 | Transwestern Pipeline Co. | Phillips Natural Gas Co. | 02-27-90 | B | 60,000 |
| ST90-2050 | Transwestern Pipeline Co. | Enogex Service Corp. | 02-27-90 | G-S | 100,000 |
| ST90-2051 | Transwestern Pipeline Co. | Gasmark Inc. | 02-27-90 | G-S | 50,000 |
| ST90-2052 | K N Energy, Inc. | Williams Gas Co. | 02-27-90 | B | 100,000 |
| ST90-2053 | K N Energy, Inc. | NGC Intrastate Pipeline Co. | 02-27-90 | B | 50,000 |
| ST90-2054 | Natural Gas Pipeline Co. of America | Peoples Gas Light & Coke Co. | 02-27-90 | B | 20,000 |
| ST90-2055 | Natural Gas Pipeline Co. of America | Peoples Gas Light & Coke Co. | 02-27-90 | B | 20,000 |
| ST90-2056 | Pelican Interstate Gas System | Natural Gas Pipeline Co. of America | 02-27-90 | K | 50,000 |
| ST90-2057 | Pelican Interstate Gas System | Natural Gas Pipeline Co. of America | 02-27-90 | K | 100,000 |
| ST90-2058 | Pelican Interstate Gas System | Natural Gas Pipeline Co. of America | 02-27-90 | K | 100,000 |
| ST90-2059 | Northern Natural Gas Co. | Sunrise Energy Co. | 02-27-90 | G-S | 50,000 |
| ST90-2060 | Northern Natural Gas Co. | Arco Oil & Gas Co. | 02-27-90 | G-S | 17,600 |
| ST90-2061 | Northern Natural Gas Co. | Marathon Oil Co. | 02-27-90 | G-S | 25,000 |
| ST90-2062 | Columbia Gas Transmission Corp. | Stand Energy Corp. | 02-27-90 | G-S | 3,500 |
| ST90-2063 | Columbia Gulf Transmission Co. | Graham Energy Marketing Co. | 02-27-90 | G-S | 200,000 |
| ST90-2064 | Columbia Gas Transmission Corp. | Lighthouse Gas Marketing Co. | 02-27-90 | G-S | 10,000 |
| ST90-2065 | Transcontinental Gas Pipe Line Corp. | Union Pacific Resources Co. | 02-27-90 | G-S | 150,000 |
| ST90-2066 | Transcontinental Gas Pipe Line Corp. | Chevron U.S.A., Inc. | 02-27-90 | G-S | 600,000 |
| ST90-2067 | Transcontinental Gas Pipe Line Corp. | Northern Intrastate Pipeline Co. | 02-27-90 | B | 100,000 |
| ST90-2068 | High Island Offshore System | BP Gas Inc. | 02-27-90 | K-S | 15,000 |
| ST90-2069 | Colorado Interstate Gas Co. | Helmerich & Payne, Inc. | 02-27-90 | G-S | 36,000 |
| ST90-2070 | Natural Gas Pipeline Co. of America | Texaco Gas Marketing, Inc. | 02-28-90 | G-S | 100,000 |
| ST90-2071 | Natural Gas Pipeline Co. of America | Iowa Electric Light & Power Co. | 02-28-90 | B | 1,200 |
| ST90-2072 | Natural Gas Pipeline Co. of America | Northern Natural Gas Co. | 02-28-90 | G | 25,000 |
| ST90-2073 | Natural Gas Pipeline Co. of America | Northern Illinois Gas Co. | 02-28-90 | B | 15,000 |
| ST90-2074 | El Paso Natural Gas Co. | Iowa Public Service Co. | 02-28-90 | B | 10,550 |
| ST90-2075 | Mid Louisiana Gas Co. | Pennzoil Gas Marketing Corp. | 02-28-90 | G-S | 4,500 |
| ST90-2076 | Western Gas Supply Co. | Northwest Pipeline Corp. | 02-28-90 | C | 2,000 |
| ST90-2077 | Red River Pipeline | El Paso Natural Gas Co. | 02-28-90 | C | 50,000 |
| ST90-2078 | Tennessee Gas Pipeline Co. | CNG Transmission Corp. | 02-28-90 | G | 24,000 |
| ST90-2079 | Tennessee Gas Pipeline Co. | East Tennessee Natural Gas Co. | 02-28-90 | G | 24,000 |
| ST90-2080 | Tennessee Gas Pipeline Co. | Chevron U.S.A., Inc. | 02-28-90 | G-S | 150,000 |
| ST90-2081 | Tennessee Gas Pipeline Co. | B & A Pipeline Co. | 02-28-90 | B | 20,000 |
| ST90-2082 | Tennessee Gas Pipeline Co. | Midwestern GAs Transmission Co. | 02-28-90 | G | 24,000 |
| ST90-2083 | Tennessee Gas Pipeline Co. | Columbia Gas Transmission Corp. | 02-28-90 | G | 1,000,000 |
| ST90-2084 | Pelican Interstate Gas System | Natural Gas Pipeline Co. of America | 02-28-90 | K | 25,000 |
| ST90-2085 | Pelican Interstate Gas System | Natural Gas Pipeline Co. of America | 02-28-90 | K | 21,000 |
| ST90-2086 | Pelican Interstate Gas System | Natural Gas Pipeline Co. of America | 02-28-90 | K | 100,000 |
| ST90-2087 | Pelican Interstate Gas System | Natural Gas Pipeline Co. of America | 02-28-90 | K | 150,000 |
| ST90-2088 | Pelican Interstate Gas System | Natural Gas Pipeline Co. of America | 02-28-90 | K | 10,000 |
| ST90-2089 | Pelican Interstate Gas System | Natural Gas Pipeline Co. of America | 02-28-90 | K | 100,000 |
| ST90-2090 | Pelican Interstate Gas System | Natural Gas Pipeline Co. of America | 02-28-90 | K | 100,000 |
| ST90-2091 | Pelican Interstate Gas System | Natural Gas Pipeline Co. of America | 02-28-90 | K | 100,000 |
| ST90-2092 | Alabama-Tennessee Natural Gas Co. | North Alabama Gas District | 02-28-90 | B | 10,000 |
| ST90-2093 | Alabama-Tennessee Natural Gas Co. | City of Cherokee, Water & Gas Board | 02-28-90 | B | 359 |
| ST90-2094 | Alabama-Tennessee Natural Gas Co. | City of Moulton | 02-28-90 | B | 1,271 |
| ST90-2095 | Alabama-Tennessee Natural Gas Co. | City of Huntsville Utilities Gas System | 02-28-90 | B | 39,535 |
| ST90-2096 | Alabama-Tennessee Natural Gas Co. | City of Athens Gas Dept. | 02-28-90 | B | 4,514 |
| ST90-2097 | Alabama-Tennessee Natural Gas Co. | City of Selmer, Utility Division | 02-28-90 | B | 2,564 |
| ST90-2098 | Alabama-Tennessee Natural Gas Co. | City of Tishomingo Natural Gas Dept. | 02-28-90 | B | 1,000 |
| ST90-2099 | Alabama-Tennessee Natural Gas Co. | City of Hartselle Utilities Board | 02-28-90 | B | 2,563 |

| Docket number [1] | Transporter/seller | Recipient | Date filed | Part 284 subpart | Est. max. daily quantity [2] |
|---|---|---|---|---|---|
| ST90-2100 | Alabama-Tennessee Natural Gas Co. | City of Russellville, Gas Board | 02-28-90 | B | 6,855 |
| ST90-2101 | Alabama-Tennessee Natural Gas Co. | Tuscumbia Gas Dept. | 02-28-90 | B | 4,468 |
| ST90-2102 | Alabama-Tennessee Natural Gas Co. | Doehler-Jarvis Division of Farley, Inc. | 02-28-90 | G-S | 1,200 |
| ST90-2103 | Alabama-Tennessee Natural Gas Co. | Champion International Corp. | 02-28-90 | G-S | 20,000 |
| ST90-2104 | Alabama-Tennessee Natural Gas Co. | Tennessee River Pulp & Paper Co. | 02-28-90 | G-S | 12,000 |
| ST90-2105 | Alabama-Tennessee Natural Gas Co. | Hardin County Gas Co. | 02-28-90 | B | 551 |
| ST90-2106 | Alabama-Tennessee Natural Gas Co. | City of Decatur Gas Dept. | 02-28-90 | B | 32,000 |
| ST90-2107 | Alabama-Tennessee Natural Gas Co. | North Mississippi Natural Gas Co. | 02-28-90 | B | 951 |
| ST90-2108 | Trunkline Gas Co. | Memphis Light, Gas and Water Division | 02-28-90 | B | 200,000 |
| ST90-2109 | Southern Natural Gas Co. | Blue Circle, Inc. | 02-28-90 | G-S | 5,500 |
| ST90-2110 | Southern Natural Gas Co. | Texarkoma Transportation Co. | 02-28-90 | G-S | 2,500 |
| ST90-2111 | Southern Natural Gas Co. | South Georgia Natural Gas Co. | 02-28-90 | G-S | 10,000 |
| ST90-2112 | Southern Natural Gas Co. | Prior Intrastate Corp. | 02-28-90 | B | 150,000 |
| ST90-2113 | Northern Natural Gas Co. | Mobil Natural Gas, Inc. | 02-28-90 | G-S | 100,000 |
| ST90-2114 | Northern Natural Gas Co. | Arco Oil & Gas Co. | 02-28-90 | G-S | 10,000 |
| ST90-2115 | Northern Natural Gas Co. | Arco Oil & Gas Co. | 02-28-90 | G-S | 10,000 |
| ST90-2116 | Northern Natural Gas Co. | Enron Gas Marketing, Inc. | 02-28-90 | G-S | 10,000 |
| ST90-2117 | Northern Natural Gas Co. | Arco Oil & Gas Co. | 02-28-90 | G-S | 15,000 |
| ST90-2118 | Southern Natural Gas Co. | Piedmont Natural Gas Co. | 02-28-90 | B | 50,000 |
| ST90-2119 | Natural Gas Pipeline Co. of America | NGC Intrastate Pipeline Co. | 03-01-90 | B | 80,000 |
| ST90-2120 | Northern Natural Gas Co. | Mobil Natural Gas, Inc. | 02-28-90 | G-S | 100,000 |

[1] Notice of transactions does not constitute a determination that filings comply with commission regulations in accordance with order No. 436 (Final Rule and Notice Requesting Supplemental Comments, 50 FR 42,372, 10/10/85).
[2] Estimated maximum daily volumes includes volumes reported by the filing company in MMBTU, MCF and DT.

[FR Doc. 90-7772 Filed 4-4-90; 8:45 am]
BILLING CODE 6717-01-M

## FEDERAL ENERGY REGULATORY COMMISSION

**[Docket Nos. CP90-1026-000, et al.]**

### United Gas Pipe Line Co., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

**1. United Gas Pipeline Company**

[Docket No. CP90-1026-000]

March 27, 1990.

Take notice that on March 21, 1990, United Gas Pipe Line Company (United), P.O. Box 1478 Houston, Texas 77251-1478, filed in Docket No. CP90-1026-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Phibro Distributors Corporation (Phibro), a marketer of natural gas, under its blanket authorization issued in Docket No. CP88-6-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United would perform the proposed interruptible transportation service for Phibro, pursuant to an interruptible transportation service agreement dated June 2, 1988, as amended on December 6, 1989 (Contract No TI-21-2190). The transportation agreement is effective for a primary term of one month from the date of first delivery or such date that the parties mutually agree to terminate the agreement. The agreement shall continue for successive one month terms until terminated. United proposes to transport 309,000 MMBtu of natural gas on a peak and average day; and on an annual basis 112,785,000 MMBtu of natural gas for Phibro. United proposes to receive the subject gas at existing points of interconnection located in the states of Alabama, Louisiana, Mississippi and Texas. Points of delivery are located in the states of Florida, Louisiana, Mississippi and Texas. United avers that no new facilities are required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self-implementing provision of § 284.223(a)(1) of the Commission's Regulations. United commenced such self-implementing service on January 17, 1990, as reported in Docket No. ST90-1914-000.

*Comment date:* May 11, 1990, in accordance with Standard Paragraph G at the end of this notice.

**2. Texas Eastern Transmission Corporation, El Paso Natural Gas Company, Northern Natural Gas Company**

[Docket No. CP90-1029-000 [1], Docket No. CP90-1035-000, Docket No. CP90-1032-000]

March 27, 1990.

Take notice that the above referenced companies (Applicants) filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under their blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicants and is included in the attached appendix.

The Applicants also states that each would provide the service of each shipper under an executed transportation agreement, and that the Applicants would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

*Comment date:* May 11, 1990, in accordance with Standard Paragraph G at the end of this notice.

**Appendix**

*Applicant:* Texas Eastern Transmission Corporation, P.O. Box 2521, Houston, Texas 77252.

*Filing Date:* March 22, 1990.

*Blanket Certificate Issued in Docket No.:* CP88-136-000.

[1] These prior notice requests are not consolidated.

**Information Provided in Prior Notice Request**

| Docket No. | Transportation rate schedule (type of service) | Shipper | Volumes (DTH), peak day, average day, annual | Docket No. associated with 120-day transaction | Points of receipt | Points of delivery | Initiation date of 120-day transaction |
|---|---|---|---|---|---|---|---|
| CP90-1029-000 | IT-1 (interruptible) | Texas Eastern Gas Services Company. | 1,300,000<br>1,300,000<br>474,500,000 | ST90-1990-000 | Various | Various | 1/18/90 |

*Applicant:* Northern Natural Gas Company, 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188.

*Filing Date:* March 23, 1990.

*Blanket Certificate Issued in Docket No.:* CP86-435-000.

**Information Provided in Prior Notice Request**

| Docket No. | Transportation rate schedule (type of service) | Shipper | Volumes (MMBTU), peak day, average day, annual | Docket No. associated with 120-day transaction | Points of receipt | Points of delivery | Initiation date of 120-day transaction |
|---|---|---|---|---|---|---|---|
| CP90-1032-000 | FT-1 (firm) | Arco Oil and Gas Company. | 10,000<br>7,500<br>3,650,000 | ST90-2114-000 | Offshore Texas | Texas | 2/1/90 |

*Applicant:* El Paso Natural Gas Company, P.O. Box 1492, Houston, Texas 79978.

*Filing Date:* March 23, 1990.

*Blanket Certificate Issued in Docket No.:* CP88-433-000.

**Information Provided in Prior Notice Request**

| Docket No. | Transportation rate schedule (type of service) | Shipper | Volumes (MMBTU), peak day, average day, annual | Docket No. associated with 120-day transaction | Points of receipt | Points of delivery | Initiation date of 120-day transaction |
|---|---|---|---|---|---|---|---|
| CP90-1035-000 | IT (interruptible) | El Paso Electric Company. | 2,575<br>2,575<br>939,875 | None | Various | New Mexico<br>Texas | |

### 3. Michigan Gas Storage Company

[Docket No. CP90-1011-000]

March 27, 1990.

Take notice that on March 20, 1990, Michigan Gas Storage Company (Applicant), 212 West Michigan Avenue, Jackson, Michigan 49201, filed in Docket No. CP90-1011-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for permission to abandon certain facilities by sale to Consumers Power Company (Consumers), under the authorization issued in Docket No. CP84-451-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to abandon, by sale to Consumers, Applicant's 12-inch pipeline lateral #20 located in Orion and Pontiac Townships, Oakland County, Michigan together with all related properties and facilities. Applicant also proposes to abandon, by sale to Consumers, Applicant's Pontiac City Gate, Adams Road Station, located in Pontiac Township, Oakland County, Michigan together with its related property and facilities.

Applicant states that the pipeline presently is being used to deliver gas to Consumers at Consumers' Pontiac City Gate, Walton Boulevard Station and at Applicants' Pontiac City Gate, Adams Road Station. Applicant avers that after abandonment of the subject facilities, Applicant would continue service to Consumers at the Squirrel Road Valve Site located at the north end of the Adams Road Lateral. Applicant further states that the proposed bandonment would allow Applicant to avoid multiple pipeline relocations and lowerings due to road widening and construction that is planned for the area. Consumers would be able to serve new and existing distribution customers utilizing all or discontinuous portions of Applicant's facilities that are so abandoned because they are located in a rapidly developing metropolitan area, it is stated.

*Comment date:* May 11, 1990, in accordance with Standard Paragraph G at the end of this notice.

### 4. Wyoming-California Pipeline Company

[Docket No. CP90-1005-000]

March 28, 1990.

Take notice that on March 19, 1990, Wyoming-California Pipeline Company (WyCal), P.O. Box 1087, Colorado Springs, Colorado, 80944, pursuant to section 7(c) of the Natural Gas Act, as amended, and subpart E of part 157 of the Regulations of the Federal Energy Regulatory Commission (Commission), filed in Docket No. CP90-1005-000 an application for an optional expedited certificate of public convenience and necessity authorizing the construction and operation of facilities for the transportation of natural gas in interstate commerce for others. The proposed interstate pipeline system commences in southwestern Wyoming at Hams Fork and extends southwestward through a portion of Wyoming, Utah, and Nevada to a

terminus near Piute Junction in southeastern California, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

WyCal states that the instant application is being filed for the purpose of implementing a Stipulation and Agreement of Settlement (Settlement) that it has entered into on February 23, 1990, with the Publlic Utilities Commission of California. Consistent with the provisions of the Settlement, WyCal states that it proposes to provide for the transportation of approximately 600 MMcf per day from the Overthrust producing region, with 100 MMcf per day delivered to the Las Vegas, Nevada, area and 500 MMcf per day delivered into California. Deliveries to the Las Vegas, Nevada, area would be made to proposed interconnections with Southern California Gas Company (SoCalGas) and Pacific Gas and Electric Company (PG&E).

WyCal states that the proposed facilities would consist of approximately 672 miles of 24-inch and 30 inch pipeline and six compressor stations with a total of 90,100 horsepower. WyCal states that the route essentially duplicates, with substantially less construction, the one certificated in Docket No. CP87–479–000. WyCal states that the compression at all of the compressor stations is the same as that certificated in Docket No. CP90–41–000.

WyCal states that the pipeline system for which it has committed to seek authorization in this docket essentially replicates the pipeline configuration approved in Docket No. CP87–479–000, except in the following respects:

(a) Increased volume from the supply area in Wyoming, from approximately 400 MMcf per day to approximately 600 MMcf per day;

(b) Provision for the delivery of at least 100 MMcf per day to the Las Vegas, Nevada area;

(c) Deletion of all facilities east of Piute Junction that provided for interconnections with Transwestern Pipeline Company and El Paso Natural Gas Company;

(d) Deletion of all facilities west of Piute Junction; and

(e) Provision for direct interconnections, at or near Needles and Piute Junction, California, with the existing intrastate pipeline facilities of PG&E and SoCalGas.

In all other respects, WyCal states that its proposal herein is generally consistent with the pipeline configuration approved in Docket No. CP87–479–000, and, moreover, utilizes a pipeline configuration that has previously been found to be environmentally acceptable.

WyCal proposes transportation service only. WyCal proposes to transport gas for third-party shippers, up to the full capacity of its proposed system, which is designed to be approximately 600 MMcf per day to the Las Vegas, Nevada, area and 500 MMcf per day into the facilities of SoCalGas and PG&E.

WyCal's proposed tariff incorporates a rate schedule which incorporates a two-part rate, including a maximum reservation rate, for firm transportation service, and a one-part volumetric rate for interruptible service. All rates will be discountable between a maximum and minimum level. WyCal proposes separate zone rates for service to the facilities of SoCalGas and PG&E and for service to upstream delivery points.

WyCal states that the total direct and indirect capital cost of its configuration, including line pack, is $576,541,000. The estimate is in 1991 dollars. WyCal proposes an initial capitalization ratio of 70 percent debt and 30 percent equity.

WyCal states that the configuration from Hams Fork, Wyoming to Piute Junction, California, has already been found by the Commission to be environmentally acceptable and certificated by previous Commission orders.

WyCal states that it has made revisions to its pro forma Tariff to incorporate changes required by the January 24, 1990, Commission order in Docket No. CP90–41–000. The changes include amendments to priority of service and allocation of capacity, open season, and capacity assignment provisions of its Tariff.

WyCal states that, it has a certificate of public convenience and necessity issued in Docket No. CP87–480–000 pursuant to 18 CFR 284.221 authorizing blanket self-implementing transportation for others.

*Relationship to Existing Authorizations*

With respect to its existing certificate authorizations in, respectively, Docket Nos. CP87–479–000 and CP90–41–000, WyCal expressly states that the filing of the instant application is in no way designed to, and does not, supplant, amend, or otherwise modify those existing authorizations. However, WyCal states that, as part of the Settlement, it has committed to and will reject the certificate issued to it in Docket No. CP90–41–000 upon satisfaction of the conditions precedent in the Settlement (Exhibit Z–2 at 3, 6). With regard to the certificate authorization at Docket No. CP87–479–000, WyCal reserves the right to file for an amendment of such authorization (to eliminate facilities east and west of Piute Junction, or for such other changes as it may deem appropriate consistent with the Settlement), in the event the market circumstances so dictate.

*Comment date:* April 18, 1990, in accordance with Stnadard Paragraph F at the end of this notice.

**5. Tarpon Gas Marketing Ltd.**

[Docket Nos. CI89–502–000 and CI89–502–001]

March 28, 1990.

Take notice that on August 11, 1989, as amended on March 22, 1990, Tarpon Gas Marketing Ltd. (Tarpon) of Suite 440, 700—4th Avenue, SW., Calgary, Alberta, Canada T2P 3J4, filed an application pursuant to sections 4 and 7 of the Natural Gas Act and the Federal Energy Regulatory Commisison's (Commission) regulations thereunder for an unlimited term blanket certificate with pregranted abandonment to authorize sales of natural gas for resale in interstate commerce including imported Canadian gas, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

*Comment date:* April 16, 1990, in accordance with Stnadard Paragraph J at the end of this notice.

**6. United Gas Pipe Line Company**

[Docket Nos. CP90–1024–000]

March 28, 1990.

Take notice that on March 21, 1990, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478 filed in Docket No. CP90–1024–000 a request pursuant §§ 157.205 and 284.223 of the Commisison's Regulations under the Natural Gas (18 CFR 157.250) for authorization to transport natural gas on behalf of Victoria Gas Corporation (Shipper) under the blanket certificate issue in Docket No. CP88–6–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests on file with the Commission and open to public inspection.

United States that it proposes to transport for Shipper 103,000 MMBtu on a peak day, 103.000 MMBtu on an average day and 37,595,000 MMBtu on an annual basis. United also states that pursuant to a Transportation Agreement dated July 14, 1988 as amended on January 8, 1990 between United and Shipper (Transportation Agreement) proposes to transport natural gas for Shipper from points of receipt located in various counties in Texas, Mississippi, Alabama and Florida. The ponts of delivery and Ultimate points of delivery

are located various counties, Louisiana and Mississippi.

United further states that it commenced this service on January 18, 1990, as reported in Docket No. ST90–1913–000.

*Comment date:* May 14, 1990, in accordance with Stnadard Paragraph G at the end of this notice.

**7. United Gas Pipe Line Company, United Gas Pipe Line Company, El Paso Natural Gas Company**

[Docket No. CP90–1023–000,[1] Docket No. CP90–1025–000, Docket No. CP90–1027–000]

March 28, 1990.

Take notice that the above referenced companies (Applicants) filed in the respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related docket numbers of the 120-day transactions under § 284.223 of the Commisison's Regulations, has been provided by the Applicants and is summarized in the attached appendix.

Applicants state that each of the proposed services would be provided under an executed transportation agreement, and that Applicant would charge the rates and abide by the terms and conditions of the referenced transportation rate schedules.

*Comment date:* May 14, 1990, in accordance with Stnadard Paragraph G at the end of this notice.

| Docket no. (date filed) | Applicant | Shipper name (type) | Peak volume average [2] annual | Related contract [3] and dockets | Points of receipt | Points of delivery | Service date rate schedule service type |
|---|---|---|---|---|---|---|---|
| CP90–1023–000 (3–21–90) | United Gas Pipe Line Company, P.O. Box 1478, Houston, Texas 77251–1478. | Laser Marketing Company (marketer). | 618,000; 618,000; 225,570,000 | [4] 10–1–88a; CP88–6–000; ST90–1966–000 | Various | Various | 1–24–90; ITS; Interruptible |
| CP90–1025–000 (3–21–90) | United Gas Pipe Line Company, P.O. Box 1478, Houston, Texas 77251–1478. | Laser Marketing Company (marketer). | 618,000; 618,000; 225,570,000 | [5] 10–1–88a; CP88–6–000; ST90–1965–000 | Various | Various | 1–24–90; ITS; Interruptible |
| CP90–1027–000 (3–22–90) | El Paso Natural Gas Company, P.O. Box 1492, El Paso, Texas 79978. | El Paso Electric Company (end-user). | 25,750; 25,750; 9,398,750 | 4–17–86a; CP88–433–000; ST86–1506–000 | Any Interconnect. | Rio Grande Plant. | 4–21–86; T–1; Interruptible |

[2] Volumes are shown in MMBtu unless otherwise indicated.
[3] The date of the transportation agreement is shown. If "a" is suffixed, the agreement has been amended. The CP docket corresponds to applicant's blanket transportation certificate. If 120-day transportation is involved, the service was reported in the indicated ST docket.
[4] As amended January 9, 1990 (Amendment No. 43).
[5] As amended January 12, 1990 (Amendment No. 44). United explains that it was necessary to make two filings (Docket No. CP90–1023–000 and CP90–1025–000) rather than one due to queuing requirements.

**8. Alabama-Tennessee Natural Gas Company**

[Docket No. CP90–1036–000, Docket No. CP90–1037–000, Docket No. CP90–1038–000, Docket No. CP90–1039–000, Docket No. CP90–1040–000, Docket No. CP90–1041–000]

March 28, 1990.

Take notice that the above referenced company (Applicant) filed in the respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.[1]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes and the initiation service dates and related docket numbers of the 120–day transactions under § 284.223 of the Commission's Regulations, has been provided by the Applicant and is summarized in the attached appendix.

Applicant states that each of the proposed services would be provided under an executed transportation agreement, and that Applicant would charge the rates and abide by the terms and conditions of the referenced transportation rate schedules.

*Comment date:* May 14, 1990, in accordance with Standard Paragraph G at the end of this notice.

[1] These prior notice requests are not consolidated.

| Docket No. (date filed) | Appplicant | Shipper name (type) | Peak volume, average,[1] annual | Related contract [2] and dockets | Points of | | Service date, rate schedule, service type |
|---|---|---|---|---|---|---|---|
| | | | | | Receipt | Delivery | |
| CP90–1036–000 (3–23–90) | Alabama-Tennessee Natural Gas Company, P.O. Box 918, Florence, Alabama 35631. | Tennessee Valley Authority (end-user). | 10,000 — 3,650,000 | 1–29–90 CP 89–2201–000 ST90–2128–000 | AL, MS | Meter No. 13101... | 2–1–90 IT Interruptible. |

| Docket No. (date filed) | Appplicant | Shipper name (type) | Peak volume, average,[1] annual | Related contract [2] and dockets | Points of | | Service date, rate schedule, service type |
|---|---|---|---|---|---|---|---|
| | | | | | Receipt | Delivery | |
| CP90-1037-000 (3-23-90) | Alabama-Tennessee Natural Gas Company, P.O. Box 918, Florence, Alabama 35631. | Doehler-Jarvis Division of Farley, Inc. (end-user). | 1,200 — 432,000 | 1-29-90 CP 89-2201-000 ST90-2102-000 | AL, MS | Meter No. 11611... | 2-1-90 IT Interruptible. |
| CP90-1038-000 (3-23-90) | Alabama-Tennessee Natural Gas Company, P.O. Box 918, Florence, Alabama 35631. | Tennessee River Pulp & Paper Company (end-user). | 12,000 — 4,464,000 | 1-29-90 CP 89-2201-000 ST90-2104-000 | AL, MS | Meter No. 10101... | 2-1-90 IT Interruptible. |
| CP90-1039-000 (3-23-90) | Alabama-Tennessee Natural Gas Company, P.O. Box 918, Florence, Alabama 35631. | Champion International Corporation (end-user). | 20,000 — 7,440,000 | 1-29-90 CP 89-2201-000 ST90-2103-000 | AL, MS | Meter Nos. 200-18.5, 16821, 16121-1&2. | 2-1-90 IT Interruptible. |
| CP90-1040-000 (3-23-90) | Alabama-Tennessee Natural Gas Company, P.O. Box 918, Florence, Alabama 35631. | Reynolds Metals Company (end-user). | 25,000 — 9,300,000 | 1-29-90 CP 89-2201-000 ST90-2134-000 | AL, MS | Meter Nos. 12101, 12102, 12104. | 2-1-90 IT Interruptible. |
| CP90-1041-000 (3-23-90) | Alabama-Tennessee Natural Gas Company, P.O. Box 918, Florence, Alabama 35631. | Amoco Chemical Company (end-user). | 18,000 — 6,696,000 | 1-29-90 CP 89-2201-000 ST90-2130-000 | AL, MS | Meter No. 16104-1-2-3. | 2-1-90 IT Interruptible. |

[1] Volumes are shown in dekatherms unless otherwise indicated.
[2] The date of the transportation agreement is shown. The CP docket corresponds to applicant's blanket transportation certificate. If 120-day transportation is involved, the service was reported in the indicated ST docket.

**Standard Paragraphs**

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, purusant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commissions Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

J. Any person desiring to be heard or make any protest with reference to said filings should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 90-7790 Filed 4-4-90;8:45am]

BILLING CODE 6717-01-M

## Federal Energy Regulatory Commission

**[Docket No. RP89-239-016]**

## Boundary Gas, Inc.; Compliance Filing

March 28, 1990.

Take notice that on March 23, 1990, Boundary Gas, Inc. (Boundary) made an electronic filing of Third Revised Tariff Sheet No. 43 to its FERC Gas Tariff, First Revised Volume No. 1, to be effective November 1, 1989.

Boundary states that this filing is made pursuant to the Commission's Letter Order issued on February 9, 1990 and Commission Order No. 493. Boundary originally filed Third Revised Sheet No. 43 on January 5, 1990. It was accepted by the Commission in its February 9, 1990 Letter Order. This filing

simply provides Third Revised Tariff Sheet No. 43 in an electronic format.

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 (1989)). All such protests should be filed on or before April 4, 1990. 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. 90-7795 Filed 4-4-90; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. ER90-281-000]**

## Century Power Corp.; Filing

March 29, 1990.

Take notice that on March 23, 1990, Century Power Corporation (Century) tendered for filing an executed Economy Agreement between Century and Salt River Project Agricultural Improvement and Power District (Salt River Project). The Agreement provides the terms and conditions under which economy energy may be sold and purchased.

Century asks that the filing become effective as anticipated in the parties' Agreement on January 1, 1990. Accordingly, vaiver of notice is requested.

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, 385.214). All such motions or protests should be filed on or before April 13, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make any 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. 90-7767 Filed 4-4-90; 8:45 am]

BILLING CODE 6710-01-M

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**[Docket Nos. CS84-65-001, CI85-479-001 and CI85-480-001**

## Elf Aquitaine Operating, Inc. (Successor to Huffco Petroleum Corp.; Redesignation

March 29, 1990.

Take notice that on May 17, 1989, Elf Aquitaine Operating Inc., c/o Newman & Holtzinger, P.C., 1614 L Street, NW., Washington, DC 20036, filed an application pursuant to section 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder to amend the small producer certificate previously issued to Huffco Petroleum Corporation in Docket No. CS84-65-000 and the certificates issued to Huffco Petroleum Corporation authorizing sales of natural gas to Columbia Gas Transmission Corporation in Docket Nos. CI85-479-000 and CI85-480-000 to reflect the change in corporate name to Elf Aquitaine Operating, Inc. and to redesignate Huffco Petroleum Corporation's related rate schedules as Elf Aquitaine Operating, Inc.'s rate schedules, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Effective August 17, 1988, the corporate name of Huffco Petroleum Corporation was changed to Elf Aquitaine Operating, Inc. as evidenced by a Certificate of Amendment of Certificate of Incorporation dated August 12, 1988.

Notice is hereby given that Huffco Petroleum Corporation's small producer certificate in Docket No. CS84-65-000 and Huffco Petroleum Corporation's cetificates in Docket Nos. CI85-479-000 and CI85-480-000 and related FERC Gas Rate Schedule Nos. 1 and 2 are redesignated to reflect the corporate name change from Huffco Petroleum Corporation to Elf Aquitaine Operating, Inc.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 90-7773 Filed 4-4-90; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. ER90-285-000]**

## Florida Power & Light Co.; Filing

March 29, 1990.

Take notice that Florida Power & Light Company (FPL) on March 26, 1990, tendered for filing a document entitled Amendment Number Five to Contract for Interchange Service between Tampa Electric Company (TECO) and Florida Power & Light Company (Rate Schedule FERC No. 23).

Pursuant to the provisions of the existing Contract for Interchange Service between FPL and TECO, FPL hereby unilaterally files this Amendment to Service Schedule A to the Interchange Agreement to reduce the length of time that a company can receive emergency capacity and energy under Service Schedule A. This Service Schedule will now be consistent with newer interchange contracts that FPL has negotiated with other parties.

FPL requests that waiver of § 35.3 of the Commission's Regulations be granted and that the proposed Amendment made effective on March 1, 1990. FPL states that copies of the filing were served on TECO.

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, 385.214). All such motions or protests should be filed on or before April 13, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make any 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. 90-7768 Filed 4-4-90; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. ER90-184-000]**

## Ford Motor Company and Rouge Steel Co.; Order Noting Intervention, Granting Waivers and Blanket Approvals, Denying Request To Disclaim Jurisdiction and Accepting Rates for Filing

Issued March 29, 1990.

Before Commissioners: Martin L. Allday Chairman; Charles A. Trabandt, Elizabeth Anne Moler and Jerry J. Langdon.

## Background

Ford Motor Company [1] and Rouge Steel Company [2] (collectively Industrials) are tenants-in-common owners of an electric generating facility [3] located in Dearborn, Michigan. On January 31, 1990, the Industrials submitted for filing an initial rate schedule contained in an Interconnection Agreement between the Industrials and Detroit Edison Company (Edison). The rate schedule covers the sale of surplus power from the Industrials to Edison. The rates proposed by the Industrials are the same rates that Edison currently charges for its sales of power to the Industrials.

The Industrials also request that the Commission find that they are not public utilities under the Federal Power Act (FPA), or, in the alternative, grant waivers of and blanket approvals under certain Commission regulations. Specifically, the Industrials request waivers of and blanket approvals under: (1) The requirement that they keep their books in accordance with the Uniform System of Accounts, as contained in part 101 of the regulations; (2) the reporting and other requirements of parts 41, 50 and 141 of the regulations; (3) the requirement to seek prior approval as to property dispositions and consolidations, securities issuances and assumptions of liability, and the holding of interlocking positions governed by parts 33, 34, 45, and 46 of the regulations; and (4) subparts B and C of part 35 which specify various filing requirements applicable to submittals pursuant to section 205 of the FPA. The Industrials base their request for waivers and blanket approvals on prior Commission cases where similar requests were granted, *i.e.*, "St. Joe Minerals Corporation" (St. Joe) [4] and "Cliffs Electric Service Company", *et al.* (Cliffs).[5]

Notice of the filing was issued in the **Federal Register**,[6] with comments, protests, or interventions due on or before February 20, 1990. On February 20, 1990, Edison filed a motion to intervene in support of the proposed Interconnection Agreement.

## Discussion

Under Rule 214(c) of the Commission's Rules of Practice and Procedure,[7] the timely, unopposed motion to intervene of Edison serves to make it a party to this proceeding.

The first issue before us is the Industrials' request that we disclaim jurisdiction over the instant facility and transactions. The Industrials argue that they should not be subject to the Commission's jurisdiction as public utilities because their sales of electricity are so small and incidential.[8]

The Industrials sold to Edison 99 MWH in 1988 and 1,998 MWH in 1989.[9] They will continue to sell surplus power to Edison under the proposed Interconnection Agreement. Although the sales are incidental to the Industrials' primary businesses and are occasional in nature, they nevertheless clearly are sales for resale in interstate commerce, subject to our jurisdiction under sections 205 and 206 of the FPA.[10] Likewise, the Industrials, as the owners of facilities subject to our jurisdiction, are public utilities as defined in section 201(e) of the FPA.[11] Accordingly, the Industrials' request for a disclaimer of jurisdiction will be denied.

In the alternative, the Industrials request waivers of and blanket approvals under various parts of the Commission's regulations.[12] In this regard, we note that all of the waivers and blanket approvals requested by the Industrials were previously granted by the Commission in St. Joe and Cliffs, *supra*.

In St. Joe, the Commission granted the requested waivers and blanket approvals. St. Joe was an industrial company selling interruptible power temporarily and incidentally as a small part of its primary business (a diversified natural resources company). The relevant facilities were used either for St. Joe's own industrial purposes or for interconnection with its local electric utility. The Commission found *inter alia* that the sales of this power appeared to be in the public interest because they promoted St. Joe's business operations and benefitted the depressed local economy. The Commission found it was appropriate to grant waivers of certain regulations and to reduce the requirements of other remaining regulations (those implementing statutory responsibilities which could not be waived).[13]

Similar considerations led to the waivers and blanket approvals granted in Cliffs. The Commission stated that request for waivers and blanket approvals will be considered on a case-by-case basis. The Commission noted that if the petitioner's facilities were constructed solely for, and used primarily for, petitioner's own internal industrial requirements, such waivers and blanket approvals would be granted based on consideration of factors such as the temporary nature of the contractual obligation, the interruptible nature of the sales, the small amount of revenues received relative to the total revenues, and public interest considerations.[14]

We believe the instant filing is similar to St. Joe and Cliffs in all major respects. First, the Industrials' generating units supplying the output were not constructed, and are not primarily used for, public utility purposes. Second, the Industrials' primary businesses are not the public utility business. Third, as noted above, in 1988 the Industrials sold Edison only 99 MWH out of 1.249 million MWH and in 1989 the Industrials sold Edison only 1,998 MWH out of 1.249 million MWH. Thus, there is a small amont of power involved. Fourth, the sales at issue will be temporary, incidental sales. Fifth, the sales will involve surplus capacity that otherwise would not be utilized. Therefore, for the same reasons waivers and blanket approvals were granted in St. Joe and

[1] Ford Motor Company is a world-wide manufacturer of automobiles, trucks, agricultural equipment, aerospace and defense products and owns substantial financial services operations. Ford Motor Company has its headquarters in Dearborn, Michigan. Within the Rouge Industrial Complex in Dearborn, Michigan (Rouge Complex), Ford Motor Company operates an automobile assembly plant, a glass manufacturing and fabrication facility, an engine plant and a frame plant.

[2] Rouge Steel Company is a fully integrated producer of basic iron, raw steel and related steel products. Rouge Steel Company produces steel and steel products for Ford Motor Company and a number of nonautomotive customers. Rouge Steel Company operates a steel manufacturing facility within the Rouge Complex.

[3] The electric generating facility is located within the Rouge Complex, and generates most of the electricity consumed by Ford Motor Company and Rouge Steel Company in the Rouge Complex. It also generates and delivers steam, compressed air and turbo air within the Rouge Complex, as well as distributing mill water and city water. The facility has seven coal and gas-fired steam electric turbine generator units with a total rated nameplate capacity of 315 megawatts. Under normal operating circumstances, the facility's recent maximum electric output has been approximately 220 megawatts. The facility also includes certain 13.8 kV and 120 kV distribution and transmission lines and equipment used for interconnection with Detroit Edison Company and distribution of power within the Rouge Complex.

The facility is owned by Ford Motor Company and Rouge Steel Company as tenants-in-common with Rouge Steel Company having an undivided 60 percent interest and Ford Motor Company having an undivided 40 percent interest.

[4] 21 FERC ¶ 61,323 (1982), *order on reh'g*, 22 FERC ¶ 61,211 (1983); *see also* St. Joe Minerals Corporation, 23 FERC ¶ 61,208 (1983).

[5] 32 FERC ¶ 61,372 (1985).

[6] 55 FR 5,493 (1990).

[7] 18 CFR 385.214(c) (1989).

[8] Industrials Petition at 7–8.

[9] The Industrials total net electric generation in each year was 1,249,000 MWH.

[10] 16 U.S.C. 824d, 824e (1988).

[11] 16 U.S.C. 824(e) (1988).

[12] Industrials Petition at 11–13.

[13] *See* 21 FERC at 61,862–63, 22 FERC at 61,388.

[14] 32 FERC at 61,833.

Cliffs, we will grant waivers and blanket approvals here.[15]

In addition, the rates at issue are the same as those Edison charges the Industrials, are less than Edison's Commission-approved rates for similar services to others, and are less than the prevailing rates for sales to Edison by the various other utilities interconnected with Edison. Accordingly, the proposed rates for Industrials' occasional sales appear to be just and reasonable, and they have not been shown to be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. The proposed Interconnection Agreement will be accepted for filing, to become effective April 1, 1990, as requested, without a hearing.

The Commission orders:

(A) The Industrials' request for a declaratory order stating that the Commission will not assume jurisdiction over the Industrials as public utilities is hereby denied.

(B) The Industrials' request for waiver of the Commission's accounting and reporting regulations, specifically parts 101, 41, 50, and 141, is hereby granted.

(C) The Industrials' request for wavier of part 33 of our regulations regarding property dispositions and consolidations is hereby granted; provided that the Industrials shall provide notice to and seek approval of the Commission prior to undertaking any such actions with respect to jurisdictional property.

(D) Within thirty (30) days of the date of this order, any person desiring to be heard or to protest blanket approval of issuances of securities and assumptions of liability by Ford Motor Company and Rouge Steel Company 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 388.214).

(E) Absent a request for hearing within the period specified in paragraph (D) above, Ford Motor Company and Rouge Steel Company are authorized, from the date of this order, to issue securities and assume obligations or liabilities as guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object, within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

(F) The Commission reserves the right to modify this order and to require a further showing that neither public nor private interests will be adversely affected by the continued Commission approval of Ford Motor Company's and Rouge Steel Company's issuances of securities and assumptions of liability.

(G) Until further order to this Commission, any person now holding or who may hold an otherwise proscribed interlock involving the Industrials is authorized to hold such positions; provided that such person files the application required in paragraph (H) below.

(H) Until further order of the Commission, the full requirements of parts 45 and 46 of the Commission's regulations, except as noted below, are hereby waived with respect to those persons subject ot paragraph (E) above, and those persons instead shall file a sworn application providing only the following information:

(1) Full name and business address; and

(2) All jurisdictional interlocks, identifying the affected companies and the positions held by that pereson.

(I) The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by the continued holding of the interlocks addressed above.

(J) The Industrials' request for waiver of the cost support requirements of Part 35 is hereby granted.

(K) The proposed Interconnection Agreement is hereby accepted for filing, to become effective April 1, 1990, without a hearing.

(L) The Industrials are hereby informed of the following rate schedule designations:

Ford Motor Company

Rate Schedule FERC No. 1

Rouge Steel Company

Rate Schedule FERC No. 1

(M) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Lois D. Cashell,

*Secretary.*

[FR Doc. 90-7766 Filed 4-4-90; 8:45 am]

BILLING CODE 6717-01-M

[15] In St. Joe and Cliffs, the Commission waived certain accounting and reporting regulations (parts 101, 41, 50, and 141) and granted substantial waivers of and blanket approvals under parts 33, 34, 35, 45, and 46 of the regulations. We will grant the same waivers and blanket approvals here.

[Docket No. ER90-280-000]

## Kansas Gas and Electric Co.; Filing

March 29, 1990.

Take notice that Kansas Gas and Electric Company (KPL) on March 22, 1990, tendered for filing a proposed change in its FERC Electric Service Tariff No. 93. The proposed KPL Letter of Intent specifies the amount of transmission capacity requirements for four Delivery Points for the period June 1, 1990 through May 31, 1991.

The KPL Letter of Intent is required by the terms of the service schedule.

Copies of this filing were served upon the Kansas Power and Light Company and the Kansas Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 13, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make any 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. 90-7771 Filed 4-4-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER90-284-000]

## New England Power Co.; Filing

March 29, 1990.

Take notice that on March 26, 1990, New England Power Company (NEP) tendered for filing amendments to its FERC Electric Tariff, Original Volume No. 1, Primary Service for Resale, constituting a supplement to its W-11(a) rates. NEP states that the proposed W-11 Supplement reflects the costs to NEP associated with the entry into service of the Seabrook nuclear generating unit. NEP further states that the proposed W-11 Supplement would increase base rates by approximately $31.1 million. NEP requests waiver of the notice requirements to permit the W-11 Supplement to become effective immediately, with a one-day suspension, and requests permission to defer billing

under the Supplement until the in-service date of Seabrook.

NEP states that its filing also includes a surcharge, to become effective on the in-service date of Seabrook and to remain effective for five years, to collect certain amounts specified in a settlement in Docket Nos. ER83–647–000, ER86–687–001, *et al.*, and ER88–66–000.

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, 385.214). All such motions or protests should be filed on or before April 13, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make any 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. 90–7769 Filed 4–4–90; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. ER90–282–000]**

## PacifiCorp; dba Filing

March 29, 1990.

Take notice that PacifiCorp, doing business as Pacific Power & Light and Utah Power & Light (PacifiCorp), on March 23, 1990, tendered for filing, in accordance with § 35.30 of the Commission's Regulations, PacifiCorp's Revised Appendix 1 for the state of Washington and Bonneville Power Administration's (Bonneville) Determination of Average System Cost (ASC) for the state of Washington (Bonneville's Docket 5–A2–8901). The Revised Appendix 1 calculates the ASC for the state of Washington applicable to the exchange of power between Bonneville and PacifiCorp.

PacifiCorp requests waiver of the Commission's notice requirements to permit this rate schedule to become effective June 12, 1990, which it claims is the date of commencement of service.

Copies of the filing were supplied to Bonneville, the Washington Utilities and Transportation Commission, and Bonneville's Direct Service Industrial 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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 13, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make any 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. 90–7770 Filed 4–4–90; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket Nos. CP90–1055–000 and CP90–1056–000]**

## Texas Gas Transmission Corp.; Requests Under Blanket Authorization

March 29, 1990.

Take notice that Texas Gas Transmission Corporation (Applicant), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in the respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under the blanket certificate issued in Docket No. CP88–686–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[1]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Applicant states that each of the proposed services would be provided under an executed transportation agreement, and that Applicant would charge the rates and abide by the terms, and conditions of the referenced transportation rate schedules.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the date after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

**Lois D. Cashell,**

*Secretary.*

| Docket number (date filed) | Shipper name (contract date) | Peak day [2] avg, annual | Related [3] dockets | Points of | | Start up date rate schedule |
|---|---|---|---|---|---|---|
| | | | | Receipt | Delivery | |
| CP90–1055–000 (3–27–90) | Associated Natural Gas, Inc. (2–15–90) | 50,000<br>50,000<br>18,250,000 | ST90–2180–000 | Various | Various | 2–17–90<br>IT. |
| CP90–1056–000 (3–27–90) | Hadson Gas Systems, Inc. (10–26–89) | 40,000<br>15,000<br>5,475,000 | ST90–1911–000 | Various | NGPI, CGTC. | 2–10–90<br>IT. |

[2] Quantities are shown in MMBtu unless otherwisde indicated.

[3] If an ST docket is shown, 120-day transportation service was reported in it.

[1] These prior notice requests are not consolidated.

[FR Doc. 90–7774 Filed 4–4–90; 8:45 am]

BILLING CODE 6717–01–M

## ENVIRONMENTAL PROTECTION AGENCY

[AMS-FRL-3752-8]

### Control of Air Pollution From New Motor Vehicle Engines; Federal Certification Test Results for 1990 Model Year

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice.

**SUMMARY:** Section 206(e) of the Clean Air Act, as amended August 1977, directs the Administrator of the Environmental Protection Agency to announce in the Federal Register the availability of the results of certification tests. These tests are conducted on new motor vehicles and new motor vehicle engines to determine conformity with Federal standards for the control of air pollution caused by motor vehicles. The Federal Certification Test Results for the 1990 model year are now available and may be obtained by writing: U.S. Environmental Protection Agency, Office of Mobile Sources, 2565 Plymouth Road, Ann Arbor, Michigan 48105.

**FOR FURTHER INFORMATION CONTACT:** Clarice Reed, Certification Division, U.S. Environmental Protection Agency, Office of Mobile Sources, 2565 Plymouth Road, Ann Arbor, Michigan 48105, (313) 668-4266.

Dated: March 30, 1990.

Michael Shapiro,

*Acting Assistant Administrator for Air and Radiation.*

[FR Doc. 90-7889 Filed 4-4-90; 8:45 am]

BILLING CODE —M

[FRL-3752-2]

### Exploratory Environmental Research Centers; Solicitation for Proposals

**AGENCY:** U.S. Environmental Protection Agency.

**ACTION:** Notice of solicitation for proposals.

**SUMMARY:** This notice sets forth the eligibility and submission requirements, evaluation criteria, and implementation schedule for establishing four university-based exploratory environmental research centers. These centers will be competitively awarded.

**DATES:** All proposals must be received at the contact point by July 17, 1990.

**FOR FURTHER INFORMATION CONTACT:** Karen Morehouse, Director, Centers Program, Office of Exploratory Research (RD-675), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, telephone 202/382-5750.

**SUPPLEMENTARY INFORMATION:**

#### I. Abstract

The Environmental Protection Agency (EPA) is seeking to establish four university-based exploratory environmental research centers in subjects directly related to the Agency's long range research strategy, as described later in this document. Each center will be supported initially for five years through a grant with EPA, with renewal possibilities for up to four more years. The Agency expects to provide $1 million annually to each center, which cannot exceed 80% of the total center funds. Applicants must be universities or consortiums of universities. All information necessary for submission of a proposal is contained below.

#### II. General Description

EPA has long been known as a regulatory and enforcement body, but these functions constitute only part of the Agency's mission. EPA also has an obligation to be the Nation's environmental science agency, by conducting environmental research in EPA laboratories, working to become the lead federal Agency for support of the academic environmental research community, and enhancing opportunities for young researchers and students to prepare for and enter environmentally related careers.

The Agency began its competitively established research centers in 1979, when the first solicitation was issued.

Ultimately, eight centers were established. As new information has arisen and environmental priorities have shifted, it has become desirable to seek new ideas for research center themes which are in keeping with the changing environmental picture.

EPA's exploratory research centers program has multiple goals. First, the Agency plans to support institutions which exhibit their potential for leadership in critical environmental research areas and for conducting superior fundamental, interdisciplinary environmental research which stands to provide significant returns over the next decade.

Another goal of the program is to support universities in their mission to provide excellent education and practical experience to young scientists and engineers who may be considering careers in environmentally related professions. EPA understands that it is the quality and abundance of talented researchers who dedicate their careers to environmental science which will dictate the progress that can be made in solving environmental problems throughout the country and around the world. Whether these young researchers go on to work in industry or government or remain in academia, their continued interest and growth in environmental fields is critical to the achievement of the ultimate goals of environmental pollution control, remediation, and prevention.

#### III. Mission of the Centers

EPA's exploratory environmental research centers are charged with carrying out a high quality program of multi-disciplinary, fundamental research which advances the scientific and technical understanding of critical environmental problems and potential solutions. Centers are also expected to disseminate the results of their research to those in the environmental and research communities who would benefit from it.

#### IV. Eligibility Requirements

All United States universities in good standing with the federal government are eligible to apply. For purposes of this solicitation, "university" is defined as a State-accredited academic institution which comprises more than one undergraduate college, confers baccalaureate degrees, and offers advanced degrees in more than one subject area. All of the above criteria must be met to achieve eligibility. No academic institutions other than those characterized by the above definition may apply.

As stated above, university consortiums are eligible to compete provided that each member institution meets all of the eligibility and administrative requirements outlined above. No university may submit more than one proposal as the lead institution.

Minorities and women are encouraged to apply.

#### V. Research Themes

The best research themes are those which unite the talents and interests of superior environmental researchers from diverse fields with the priorities of the environmental management and regulatory community. EPA has, therefore, chosen not to list particular research themes for this competition. Instead, potential applicants are urged to read carefully the discussion presented below which articulates the Agency's current and projected research interests and environmental management goals, and which

proscribes certain topics which, for various reasons, are not candidates for funding through this program. Within this framework, proposers are free to develop their own research themes.

Selection of a suitable research theme is the first and most important activity to be undertaken by prospective proposers. Proposals will be judged largely on the appropriateness of the chosen theme within the context of a long term research center, the value of the topic to the environmental community in general and to EPA in particular, and the demonstrated ability of the proposing institution to conduct the research and to administer the center.

*A. Center Themes Prohibited Under This Solicitation*

Certain areas are prohibited as research themes for centers funded under this program. These areas are described below, with a brief explanation of why they are not allowed:

1. Research relating *specifically* to the manufacture, handling, disposal, treatment, transportation, control, or minimization of hazardous substances

EPA already sponsors five such centers under the Hazardous Substance Research Centers Program, authorized by Section 311(d) of Superfund.

2. Research pertaining to the economics or sociology of environmental pollution, or to the communication of risks from environmental contaminants

Such activities are more appropriately supported by EPA offices other than the Office of Research and Development.

3. Environmental or health statistics

These topics do not readily lend themselves to an exploratory research centers approach and are best handled through other means.

4. Ecological or health risk assessment

Those activities which both support risk assessment and are amenable to a fundamental research center approach are described in the next section of this solicitation. The actual assessment of risk is not research.

5. Environmental research which duplicates that conducted by the centers supported by other federal agencies

Although EPA has the lead responsibility for supporting environmental research, several other agencies are supporting research centers in environmentally-related areas. This solicitation is seeking proposals for research which is not being supported elsewhere.

*B. EPA's Research Strategy for the 1990's*

Faced with the knowledge that the traditional "single source, single pollutant, single medium" approach to environmental management was insufficient, during the late 1980s EPA re-evaluated its approach to environmental management and problem solving. As part of that effort, the Office of Research and Development, working with the Agency's Science Advisory Board, developed a ten year research strategy which was consistent with EPA's goals for the next decade.

The following discussion highlights that strategy and provides some insight into the philosophical underpinnings of the long term research goals of the environmental community. The purpose is not to suggest specific research themes for centers to pursue—that is best left to the proposers, after careful examination of the ways in which they can link their particular expertise and interests with those of EPA and the rest of the environmental community.

The key feature of this new research strategy is the identification of a "core" research program. This core program consists of those activities which by necessity involve long term, fundamental research to generate knowledge essential to all areas of environmental decisionmaking, not just EPA's immediate and regulatory needs. There are four parts to core research program. These are:

- ecological risk assessment
- health risk assessment
- risk reduction
- exploratory grants and research centers.

The actual assessment of ecological or human health risk is done by EPA, using the best scientific data available. The more gaps in the data, the less accurate the risk assessment is likely to be. The last item, of which this solicitation is a part, supports activities within each of the other three.

*Ecological Risk Assessment:* Because the traditional approach to ecological risk assessment was limited and simplistic, there is currently an inadequate knowledge base for environmental decision making, particularly regarding such complex issues as global climate change; land use practices; stratospheric ozone depletion and the resulting hazards to humans, animals, and plant life; damage to coastal water habitats; destruction of forest and wetland ecosystems; and acid precipitation. Four key questions are addressed in the core research program:

1. Which ecological resources are at risk?
- What are the various characteristics, including populations, of the major ecosystems and how do they respond to pollution?
- What are the best indicators and endpoints to examine to determine ecosystem condition?
- What are the best methods for screening and characterizing pollutants in these ecosystems?

2. What is the condition of the environment and how is it changing?
- What are the baseline characteristics that define a healthy ecosystem against which to measure change?
- How are our ecosystems changing?
- Which pollutants are contributing to ecosystem deterioration?
- How accurately can ecosystem exposure and effect models predict reality?

3. To what levels of pollutants are our ecosystems exposed?
- What pollutant levels exist in the environment?
- What are the biological, chemical, or physical processes which form and transform complex pollutants and how are they taken up in the environment?
- What are the most accurate and sensitive biomarkers of pollutant exposure within a system?

4. How do pollutant exposures affect our ecosystems?
- What are the structural properties of chemicals that predispose them to be biologically active and what are the best methods for predicting the effects?
- How can we predict, prevent, or mitigate the effects of long term, indirect, or cumulative exposures to pollutants or other environmental stressors in communities, populations, and ecosystems?
- How can laboratory data be extrapolated to ecosystem effects?
- How can effects seen in one species, population, or community be extrapolated to others?

EPA has undertaken a significantly enhanced research program around these four questions, the greatest part of which, called the Environmental Monitoring and Assessment Program (EMAP), is concerned with answering Questions 1 and 2, above. EMAP is an integrated program to monitor the status and trends of our forest, lake, stream, and estuarine ecosystems. Eventually, it will result in a rich data base which is updated frequently and which can alert us to serious negative trends and help assess the effectiveness of environmental policies and regulations.

There is considerable room within the other two areas of ecological risk assessment for the kind of long term, interdisciplinary reserach which centers can provide.

*Human Health Risk Assessment:* The primary goal of the human health risk assessment program is to understand the effects of low level, real world concentrations of pollutants to which people are exposed under normal conditions and to mitigate those exposures, where possible. The core program for health risk assessment seeks to answer the critical but difficult questions about exposure and dose which will provide the data needed to estimate risk. These questions are:

1. How can we detect and measure pollutants that pose hazards to human health?

• What methods can be used to screen and characterize the effects of pollutants on human health, particularly non-cancer effects?

• What are the structural properties of chemicals that predispose them to be biologically active and what are the best methods for predicting the effects?

2. To what extent are human populations exposed to pollutants?

• What are the most effective, efficient, and inexpensive models for determining the transport and fate of pollutants within and across media, real-world monitoring, and population activity patterns and their relationship to pollutant exposure?

• What are the most useful biomarkers of human exposure to pollutants?

• What is the best way to determine the relationship between exposure levels and absorbed doses of pollutants?

3. What happens to pollutants after they enter the body?

• How much pollutant stays in the body and where does it go?

• How much of the chemical is broken down into metabolites and are these byproducts more or less toxic than the original contaminant?

4. What health effects do environmental exposures produce?

• What are the most effective, efficient, and inexpensive biologically based dose-response models?

• What biomarkers are best to use in characterizing the effects of pollutants on target organ systems?

*Risk Reduction:* Risk reduction converts assessment into action. Traditionally, EPA and industry have focused on only one aspect of risk reduction—controlling end-of-the-pipe pollution. This remains a valuable contribution, at least until more progress has been made to avoid producing the pollutants in the first place.

Pollution prevention as a risk reduction alternative is long overdue. EPA's core program in risk reduction addresses the following questions:

1. What are the sources of pollutants?

• What are the biological, chemical, and physical mechanisms which govern how various dispersed sources, such as agricultural runoff, marsh gas, and natural vegetation, release gases and particles?

• What pollutants are released from what sources and how do they change as they are released?

• How do environmental and climatic conditions affect the rate and type of emissions, and the resulting contaminant levels?

• To what extent do treatment technologies, designed to help us control pollutants, actually reduce pollution rather than create other pollution problems?

2. How can we prevent pollution?

• How can we modify industrial processes to reduce wastes?

• How can we increase the use of industrial and commercial recovery, reuse, and recycling as options to prevent pollution?

• What changes can be made in product design and use to eliminate toxic byproducts, increase product lifetime, improve durability, and decrease the use of products which are difficult to recycle or reuse?

• What alternatives can be developed to current land use practices which may diminish environmental pollution?

3. How can we control the pollutants that we do generate?

• What must be done to fully understand combustion processes and prevent harmful emissions?

• What are the most promising microbiological processes for detoxifying and degrading wastes?

• What are the most promising physical and chemical techniques for separating, immobilizing, and destroying contaminants?

• When containment of wastes is necessary, how can we improve the performance and durability of containment technologies, particularly landfills?

• How can we use advances in containment and liner technology to minimize risks from environmental and health threats such as indoor air pollution and underground storage tanks?

4. How can we anticipate and reduce emerging risks?

• How can we minimize municipal solid wastes safely, inexpensively, and acceptably?

• What technological or non-technological options are available for reducing risks from global climate change and stratospheric ozone depletion?

• How can we diminish the threats to our ecosystems from non-point sources of pollution?

• What options are available for enhancing or protecting our water supplies?

• What are the most promising alternative fuels for heat, transportation, and domestic power?

**VI. Administrative and Operating Requirements**

*Center Membership:* Centers may be either single institutions or consortiums. No institution may be dropped from a consortium or added to a consortium without written consent from the EPA Project Officer.

*Lead Institution:* If a consortium is proposed, a lead institution must be identified. This entity is recognized as the grantee and as such is responsible for all activities carried under the agreement.

*Center Director:* The center director must be a faculty member of the proposer's institution or of the lead institution in the case of consortiums. The center director must devote at least 50% of his time to the operation of the center. The center director is encouraged to retain an assistant to help with daily administrative matters in the center.

*Principal Investigators:* All principal investigators must be full-time faculty members at a consortium institution.

*Research Program:* The center is required to construct and operate an innovative and collaborative program of research relating to the topic presented in the proposal. Significant deviations from the original program design must not be made except in accordance with recommendations by the center's Science Advisory Committee (see section titled "Science Advisory Committee" below) and following consultation with the EPA project officer. The center director will select proposals for funding based on the recommendations of the Science Advisory Committee and the availability of research funds.

*Science Advisory Committee:* To ensure that the center continues to fulfill its mission in ensuing years, the center director is required to establish a Science Advisory Committee (SAC) upon initiation of the center. This committee will elect a chairman from among its membership at its first meeting, which shall take place no later than four months after establishment of the center.

The center director will select the committee members within certain limitations established by this solicitation. Before confirming any nominations for membership on the SAC, the center director will consult with the EPA project officer. The membership of this committee will consist of at least nine technical peers drawn from the public and private sectors and from academia. In most cases, approximately ⅓ of the membership will consist of EPA and other federal employees, another ⅓ will be drawn from academia, and the remaining ⅓ may come from industry, public interest groups, academia, federal, state, or local governments, or any other sector with a real interest in the activities of the center. Members of the SAC must be drawn from institutions outside of the center. The EPA project officer will be an active but non-voting member of the SAC.

The duties of the SAC will include two mandatory meetings per year, development of lists of recommended research project areas, periodic review of proposed research, annual or semi-annual review of proposals for research within the center, annual or semi-annual review of the progress and continuing relevance of ongoing studies, and general advice and guidance to the center director on issues related to the continued success of the center. The SAC will submit a written summary or minutes of each meeting to the center director and the EPA project officer, including a list of recommendations for action by the center director. The center director is expected to follow those recommendations unless faced with a compelling reason to do otherwise.

*Annual Report:* Not more than 45 days after the end of each fiscal year, the center director must submit an annual report to the project officer. This report will include accomplishments for the fiscal year immediately ending, plans for the next fiscal year, and listings of publications, courses given, workshops, seminars, conferences, and other quantifiable outputs. Reporting deadlines may be changed by the project officer upon 120 days written advanced notice.

*Quality Assurance:* Over the lifetime of the center, for any project funded by the center which includes field measurements, environmental monitoring, or other activities subject to EPA's Quality Assurance Management program, a Quality Assurance Plan must be prepared.

Note: It is *not* necessary to prepare such a plan in response to this solicitation.

*Funding Requirements:* EPA plans to contribute approximately one million dollars annually to each center. The EPA share of funding may not exceed 80% of the total funds for the center. The recipient is not limited to this percentage match and additional contributions are encouraged. Proposers are cautioned not to promise a matching contribution greater than 20% that they are not prepared to maintain for at least two years. Matching funds may be provided by the university, state or local contributions, foundations, individuals, the private sector, or any other non-federal source.

The center is invited to seek other sources of federal funds, with matching arrangements to be negotiated with the supporting agency. It must be noted that federal grant regulations stipulate that the total federal share of the center's budget must not exceed 95%.

No federal funds provided for this program may be used to purchase, build, or renovate any buildings or to purchase land. Purchase of any equipment over $10,000 requires the written approval of the EPA award official.

Contracts with research institutions outside the consortium are allowed. However, the total amount of funds contracted for this purpose cannot exceed 10% of the total center budget for any fiscal year. Normal contractual services, such as equipment rental, purchase of supplies, maintenance, etc. are not subject to this limitation. Contract institutions are not considered part of the consortium.

*Duration of Agreement:* It is expected that each center will be funded by EPA for a total of nine years, subject to continued availability of funds for the program. The initial award will be for a five-year project period, with a project evaluation to occur before renewal. The format and timing of this evaluation will be determined by the project officer. This evaluation will be conducted at EPA's expense, using technical peers of the Agency's choosing, to ensure that the center is progressing adequately toward its technical goals and that it is being administered in accordance with the provisions of the solicitation and appropriate federal regulations. If the center is renewed, the new project period will be four years, with the possibility of further evaluation, at the project officer's discretion, at any time during the final project period.

If at any time the center is terminated or not renewed for reasons other than fraud, abuse, or other serious breaches of ethics or competence, EPA will allow the project to be extended for up to one year and may elect to provide some level of funding to accomplish and orderly phase-out of operations.

## VII. SUBMISSION REQUIREMENTS

### *A. Where and When to Submit*

In order to be considered for award of a center, an original and 15 copies of a proposal must be submitted to: Karen Morehouse, Director, Centers Program, Office of Exploratory Research (RD–675), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

The original proposal and 15 copies are due *at this contact point* no later than 5 p.m., July 27, 1990.

Proposers who would like notification of receipt of proposals may either enclose a self-addressed adhesive post card label or cover the original proposal with a page containing a fax number and contact person.

*Page Limitation:* The body of the proposal, exclusive of cover page, table of contents, cover letter, resumes, references, and budget description, must not exceed 50 double-spaced, 8½ by 11 inch pages, including any graphs, charts, tables, and pictures. Typeface must be standard letter-size type with one-inch margins all around. Do not reduce. The cover letter and each resume must not exceed two pages apiece. Response to the items, "Matching Contributions", "References", and "Budgetary Justification" together cannot exceed 12 pages.

If any of these limitations are exceeded, the proposal will be returned without further consideration.

Proposals should be securely fastened. It is requested that proposals not be placed in ring binders.

### *B. Format for Submission of Proposals*

Each proposal must adhere to the format and limitations specified below, in order to be considered for funding. Do not append additional material to the proposal, as it will not be considered and will not be forwarded to reviewers. Each proposal must be submitted in final form. Requests to add or correct material to a submitted proposal will not be considered, unless the additional material is requested by EPA.

The proposal consists of three parts: (1) Administrative Proposal, (2) Technical Proposal, and (3) Budget. The required format and contents for each part are described below:

#### 1. Administrative Proposal

Each proposal must contain the following separate items which will be used primarily in an administrative review of the proposal to determine eligibility of the proposer and

compliance with administrative requirements.

*Cover Letter:* A one to two page cover letter must accompany the proposal. This letter must be signed by the chief executive officer of the institution (or, in the case of a consortium arrangement, the lead institution). This letter must begin by stating that the proposal is submitted in response to the solicitation for Exploratory Environmental Research Centers. In addition, the letter must indicate the willingness of each institution to provide the necessary resources and support for successful implementation of the center. Finally, the letter must state that the institution will meet all operational requirements and restrictions laid out in this solicitation.

*Table of Contents:* To assist in the administrative and technical processing of proposals, a complete table of contents must be included which refers to clearly numbered pages.

*Justification of Eligibility:* Each proposal must include a section which addresses the eligibility requirements as specified in this solicitation and which clearly demonstrates the institution's eligibility to compete for a center.

*Intent to Meet Administrative Requirements:* Each proposal must include a section which addresses the administrative and operational requirements of this program as specified in this solicitation and which clearly and completely describes how the institution will adhere to these requirements.

*References:* Proposers must provide a list of *all* federal or state funding for currently active projects by its investigators or center director, as well as federal funds for which the center or its personnel have applied and are awaiting funding decisions. The format for this list is appended to this solicitation as Table 1. Information is requested only for those grants, cooperative agreements, or contracts with the federal government which list the center director or center principal investigators as the principal investigator or project manager on the agreement or contract.

As part of the Administrative Review, references will be contacted regarding the performance of the proposer on the various projects for which they have received funding. Research may also be done to determine whether the list as it appears in the proposal is complete.

Any potential or perceived duplication of effort should be addressed in this section.

2. Technical Proposal

In addition to the Administrative Proposal, the following sections must be included which will be used in the technical evaluation of the proposal.

*Center Director:* The proposal must describe the technical and administrative qualifications of the center director and his plans for developing an administrative structure which will enable the center to operate efficiently and effectively. This description must clearly demonstrate that the center director possesses the necessary expertise to guide such a center's research, training, and information dissemination activities. A résumé for the center director, not to exceed two pages in length, must be appended to the proposal.

*Principal Investigators:* The proposal must clearly indicate the skills and abilities of all principal investigators in the center. This description must clearly demonstrate that the individuals possess the necessary expertise to carry out the duties which they intend to perform. A résumé which does not exceed two pages must be appended for each key member of the technical staff associated with the center.

*Research Theme and Justification for Center:* This is the most important section of the proposal. It consists of four parts, which are described below:

Description of Research Theme—A concise but complete description of the proposed research theme of the center must be included in the technical proposal. This statement must describe the research emphasis of the center and why it is important from the standpoint of environmental management and decision making. The proposal must address directly the positive impact that this research center can be expected to have on all or part of the environmental community, both in the short term and over the next decade. This will constitute the mission statement of the center. No change to the mission statement is allowed for the lifetime of the center without a review of the center's Science Advisory Committee and written approval from the EPA project officer.

Feasibility of Research Theme—Proposers must discuss their research theme in the context of the current state of the art, funding limitations, and the prospect of advancing the scientific and technical knowledge associated with the chosen theme over the next decade.

Justification for Research Center Approach—Explain why the organization of research activities and topics are best treated using a center as an organizing principle. The primary question which must be addressed is: Why should the proposed work be organized as a center rather than treated as a collection of independent research grants or as part of EPA's inhouse research program? Generic explanations should be avoided.

Unique Attributes of Institution—If the proposing institution or consortium possesses assets which make it especially well-qualified to undertake this nine-year mission, for instance, the possession of special or unique facilities or previous experience participating in a center, these may be described here.

*Research Plan:* The proposal must present a plan for the conduct of research, which describes the technical issues and overall plan for addressing the research theme. Since it is understood that research evolves and the center would continually bring in new and project proposals, significant uncertainties are necessarily contained in the initial research plan. For that reason, the emphasis should be on the description of the specific projects that would be initiated in the first year, the way this work would be conducted, and the expected results. Provide sufficient information on each project proposed for reviewers to make decisions. To provide a context for future research, a discussion of the general approach to research should also be included, with projections about topics the center may pursue over the next three years.

To provide some latitude for reserves to allow worthy first year projects to continue, if desirable, while enabling the center director to solicit for new proposals, the proposer may elect to sequester up to $300 thousand from the first year budget to hold in reserve to support new proposals approved by the Science Advisory Committee within the first twelve months of the center's operation. Should this approach be taken, it should be clearly stated in the proposal.

*Coordination and Dissemination:* The proposal must include a plan for coordinating the activities of the center with those of organizations engaged in similar or related pursuits. This plan must identify other organizations and the ways in which coordination is to be achieved. The plan should also discuss how the center proposes to disseminate the results of its research to the most appropriate audiences.

*Facilities and Equipment:* The proposal must identify the facilities and equipment which will be available to the center and, to the extent possible, the ways in which these items will be used.

3. Budget

The budget section of the proposal includes a description of matching funds and their sources, as well as financial and human resource tables. There are described more fully below:

*Matching Contributions:* A description of the amounts and forms of non-EPA support must be included. This should be categorized as clearly as possible, and must include the sources of support, the kind (cash, salaries, equipment, supplies, etc.), and the amount of each kind of support identified.

*Resource Tables:* An estimate of expenses and personnel must be provided for the first three years of operation, using the formats shown in Tables 2–4 (appended). As in the case of the technical plan, more detailed budget information is requested for the first year of operations (Table 2) than for the out-years (Table 3). Table 4 provides the format for showing estimated personnel allocations for the first three years of the center's operation. Explanations of entries in the table are given below.

Table 2: First year Budget

- "Direct Costs" refers to estimated costs of salaries, fringe benefits, travel, equipment, supplies, contractual services (except for contracts to institutions outside of the center to conduct research tasks for the center), and miscellaneous costs. Such costs incurred by institutions under contract to the center to perform research should be reported under the item, "Contracts".
- "Contracts" refers to dollars allocated via agreements with other research or training institutions outside of the center to conduct all or part of a center's project.
- "Indirect Costs" means the total of overhead payments made to all institutions of the center.
- "Project 1, Project 2 * * * Project N" refers to the individual major research projects proposed. Identify these by project title. Include here projects conducted outside the center under contract.
- "Unallocated Resources" means all funds reserved for research projects in the first year of operation which have not yet been chosen. A justification for this reserve must be provided in the research plan.
- "Management" refers to those costs strictly associated with day-to-day operation of the center, such as the salaries and benefits of administrative employees and travel strictly associated with administration and management of the center as well as dissemination of research results.

Table 3: Out Year Budgets

- "Direct Costs," "Contracts," and "Indirect Costs" are the same as defined for Table 1.
- "Ongoing Projects" refers to total research costs for all research projects in place that were in place the preceding year.
- "New Projects" refers to total research costs for all research projects initiated in the year under consideration.

Table 4: Personnel

- "Percent of Time" refers to the percentage of time the person identified is expected to spend on center related activities for the year indicated. Principal investigators on contracted tasks must also be identified.
- "Est. Cost" refers to the estimated amount of salary and fringe benefits for the person identified for the year indicated.
- "Center Director" is self explanatory.
- "Person 1, 2 * * * N" means any administrative employee other than the center director who can be identified or whose function is clearly known.
- "Principal Investigator": where possible, each principal investigator should be identified by name.

**VIII. Proposal Evaluation**

*A. Review and Awards Procedures*

Following an administrative screening by EPA staff, all eligible proposals will undergo a multi-tiered technical review. Briefly, this review will be conducted as follows:

1. Proposals will be sorted into groups according to the major scientific and technical fields represented.

2. For each group, a panel will be convened, consisting of experts from appropriate scientific and technical fields. The exact number and composition of panels will not be determined until after the proposals are administratively reviewed.

3. An initial technical screen will be conducted by each panel. Those proposals which pass this screen will undergo further technical evaluation and will receive percentage scores.

4. The best of these proposals will continue through the competition and will be ranked numerically (1,2 * * * N).

5. The top proposals from each panel will be referred for a site visit.

6. Following the site visits, the panels will recommend proposals for funding based on the established scores. The scores and recommendations will be transmitted to EPA and the final selection will be made by the Assistant Administrator for Research and Development.

*B. Conflict of Interest*

Reviewers will be drawn from the academic community, the private sector, and the federal government. Numerous precautions will be taken to avoid conflicts of interest or the appearance thereof. All reviewers will be screened for real or perceived conflicts of interest before being invited to serve on a panel. Following their appointment to a panel but prior to the distribution of proposals for review, if a potential conflict is discovered the individual will either be excused from serving on the panel or exempted from discussions of the proposal(s) in conflict. If a potential conflict is discovered at any time after that, the reviewer in question will be excused from any discussion or scoring of the proposal in question. Prior to the date of the panel meeting, all reviewers must sign an affidavit asserting that they have no formal or informal affiliation with any of the institutions they have been asked to review and that they have no significant relationship with any of the key personnel associated with the proposals they review. No reviewer, regardless of qualifications, will be allowed to participate in the evaluation of a proposal if any panel member or EPA staff member believes that a conflict may exist.

*c. Evaluation Criteria*

The following evaluation criteria are listed in descending order of importance:

*Research Theme and Justification of Center*—As indicated earlier, this is the paramount consideration. High scores in this category can only be achieved by demonstrating that the theme chosen is not only compatible with the Nation's environmental agenda, but is of critical importance. Further, the theme must be reasonable and realistic in view of scientific, technical, budgetary, and other constraints, and the proposer must make a strong case that this area will likely bring useful and meaningful results during the next several years. A compelling argument must be made to justify why the proposed theme and intellectual approach to research will result in something more and better than we could expect to achieve through a collection of grants or via non-academic research.

*Technical Plan*—The technical plan and individual research projects will be judged on the basis of the soundness of the theoretical or experimental design, originality, feasibility, and applicability to environmental needs.

*Qualifications of Center Director and Staff*—This criterion will be used to determine the level of expertise of the center director and staff, and to determine whether the proposed skills mix is appropriate and satisfactory.

*Facilities and Equipment*—This criterion relates to the physical adequacy of the institution or institutions to carry out the proposed work. This includes the presence of required buildings and equipment, and the extent to which they are available for use by the center.

*Coordination and Dissemination*—Each applicant will be judged on the extent to which the proposal provides for integration and coordination of the center's activities with related efforts, including activities at the same institution, other universities and centers, state and local efforts, or other relevant organizations. Judging will be based both on demonstrated knowledge of the mission and activities of other organizations and on the mechanisms proposed for achieving coordination. In addition, proposers must describe their ideas for effective dissemination of the results of their research.

*Matching Contributions*—While the solicitation requires that at least 20% of the center's total support be provided through non-EPA contributions, proposals will be judged on the specific amount of matching funds which they can provide, the reliability of the sources of those resources, and the kind of support which is being proposed.

*Budgetary Justification*—This criterion will be used to determine the adequacy of the proposed budget and personnel allocation (as indicated in Tables 2–4) based on the technical plan presented and the relative proportion of operating to management costs. EPA believes that management costs for each center should be kept to a minimum.

## IX. Schedule

The following schedule will be followed for solicitation, review, and selection of the centers.

| Event | Date |
|---|---|
| Solicitation | 4/5/90 |
| Closing date for proposals received in EPA | 7/27/90 |
| Start review of proposals | 9/30/90 |
| Site visits completed | 2/15/91 |
| Selection of awardees | 2/28/91 |
| Four centers funded | 4/1/91 |

## X. Mechanism of Support

Support will take the form of a federal grant as provided for by the Federal Grant and Cooperative Agreement Act of 1977. Such agreements are subject to provisions of EPA's General Grant Regulations (40 CFR Parts 30 and 40, Research Grants) and to special conditions to be established in each specific agreement.

Proposals responding to this solicitation do not constitute formal applications to EPA for federal assistance. Only winners of the competition will be asked to submit a full Application for Federal Assistance (OMB Forms 424 and 424A). Application kits with full instructions may be obtained by writing to the contact listed at the end of this solicitation.

This program is not subject to the provisions of the Federal Demonstration Project.

## XI. Inquiries

Inquiries about the EPA Exploratory Environmental Research Centers Program should be made to: Karen Morehouse, Office of Exploratory Research (RD–675), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, Phone: 202/382–5750, FAX: 202/252–0450, or 202/252–0211.

Dated: March 29, 1990.

Approved for publication:

**Erich W. Bretthauer,**

*Assistant Administrator for Research and Development.*

TABLE 1.—FORMAT FOR REFERENCES: LIST OF ON-GOING OR ANTICIPATED FEDERALLY-FUNDED PROJECTS

[Do not exceed five pages]

| Recipient university | Project title | Funding agency/project number | Agency contact/telephone |
|---|---|---|---|
| | | | |

TABLE 2.—Format for First-Year Budget

[Do not exceed three pages]

| Project title | Direct costs (within center) | Contract (outside center) | Indirect costs | Total |
|---|---|---|---|---|
| Project 1 | | | | |
| Project 2 | | | | |
| ● | | | | |
| ● | | | | |
| ● | | | | |
| Project N | | | | |
| Unallocated resources | | | | |
| Total | | | | |
| Management | | | | |
| Grand total [1] | | | | |

[1] Should equal total budget from *all* sources.

TABLE 3.—Format for Out-Year Budget

[One page per year for years 2 and 3]

| Operating year _____ | Direct costs (within center) | Contract (outside center) | Indirect costs | Total |
|---|---|---|---|---|
| Research | | | | |
| Ongoing Project | | | | |

TABLE 3.—Format for Out-Year Budget—Continued

[One page per year for years 2 and 3]

| Operating year _____ | Direct costs (within center) | Contract (outside center) | Indirect costs | Total |
|---|---|---|---|---|
| New Projects | | | | |
| Total | | | | |
| Management | | | | |
| Grand total [1] | | | | |

[1] Should equal total budget from *all* sources.

TABLE 4.—FORMAT FOR PERSONNEL TABLE

[Do not exceed two pages]

| Position | Year 1% of time/est. cost | Year 2% of time/est. cost | Year 3% of time/est. cost |
|---|---|---|---|
| Administrative | | | |
| Center Director | | | |
| Person 1 | | | |
| Person 2 | | | |
| ● | | | |
| ● | | | |
| Person N | | | |
| Research | | | |
| Investigator 1 | | | |
| Investigator 2 | | | |
| ● | | | |
| ● | | | |
| Investigator N | | | |

[FR Doc. 90-7890 Filed 4-4-90; 8:45 am]

BILLING CODE 6560-50-M

[FRL-37526]

## Proposed Settlement; Gemeinhardt Site, IN

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

**ACTION:** Proposed settlement.

**SUMMARY:** In accordance with the requirements of section 122(i)(1) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), notice is hereby given of a proposed settlement under section 122(h) concerning the Gemeinhardt site on Route 19 in Elkhart, Indiana. The proposed settlement requires CBS, Inc., former owner of Gemeinhardt, to pay $35,000 of U.S. EPA's remaining unreimbursed past expenditures of $62,000, and obligates it it pay U.S. EPA's future oversight costs of up to $20,000 per year. The proposed settlement would resolve the cost recovery case related to response action taken by U.S. EPA at the site.

**DATES:** Comments must be submitted on or before May 7, 1990.

**ADDRESSES:** Comments should be addressed to the U.S. Environmental Protection Agency, Region V, Office of Superfund, Remedial and Enforcement Response Branch, 230 South Dearborn Street, Chicago, Illinois 60604, and should refer to: In the Matter of: Gemeinhardt, Elkhart, Indiana.

**FOR FURTHER INFORMATION CONTACT:** Charles McKinley, Office of Regional Counsel, at (312) 886-4247.

**SUPPLEMENTARY INFORMATION:** Notice of section 122(h) Cost Recovery Settlement: In accordance with section 122(i)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1984, as amended (CERCLA), notice is hereby given that on December 12, 1989, a proposed Administrative Order by Consent was agreed to by CBS Inc., on behalf of Gemeinhardt. The proposed settlement requires CBS to pay $35,000 of the approximately $62,000 of unreimbursed costs incurred by U.S. EPA. These costs were expended during a removal action taken by U.S. EPA and while overseeing CBS' implementation of a 1985 Consensual Administrative Order, pursuant to which CBS has performed the remaining activity of the removal action. CBS had also previously paid 100% of U.S. EPA's direct costs in the amount of $102,000.

Under the proposed settlement, in addition to reimbursement to EPA in the amount of $35,000, CBS obligates itself to pay EPA's future oversight costs of up to $20,000 per year and to construct and operate a groundwater extraction and treatment system, estimated to cost between $1.5 and $2 million.

The Environmental Protection Agency will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed settlement.

A copy of the proposed Administrative Order by Consent may be obtained in person or by mail from the Office of Regional Counsel, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. Additional background information relating to the settlement is available for review at this address.

**Frank M. Covington,**

*Acting Regional Administrator, USEPA, Region 5.*

[FR Doc. 90-7891 Filed 4-4-90; 8:45 am]

BILLING CODE 6560-50-M

## FEDERAL COMMUNICATIONS COMMISSION

[MM Docket No. 87-267, FCC 90-112]

## Broadcast Services; AM Broadcast Applications

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of application freeze.

**SUMMARY:** In advance of a notice of proposed rule making, to be issued shortly in this proceeding, the Commission places a freeze on the

acceptance of applications for new AM broadcast stations or for changes in the facilities of existing stations, except under certain clearly defined circumstances, effective April 5, 1990. This comprehensive review of the AM service was initiated by *Notice of Inquiry* (52 FR 31795, August 24, 1987) and involves consideration of many fundamental issues affecting the AM service, including the expansion of the AM band from 1605 to 1705 kHz. This freeze is enacted to avoid compounding present difficulties in the AM band with a continuing flow of new assignments based upon existing, possibly inadequate standards.

**EFFECTIVE DATE:** April 5, 1990.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Larry Olson, Mass Media Bureau, (202) 632–6955.

**SUPPLEMENTARY INFORMATION:** .

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

In the matter of: Review of the technical assignment criteria for the AM broadcast service, MM Docket No. 87–267.

**Order**

Adopted: March 29, 1990.

Released: March 29, 1990.

By the Commission:

1. The current rules governing assignment of Am broadcast stations have remained essentially the same for two decades. The Commission, recognizing problems confronting AM licensees, has begun a process to improve the AM service.

2. We intend to issue shortly a *Notice of Proposed Rule Making* that will consider many fundamental issues affecting the AM service including the expansion of the AM band from 1605 to 1705 kHz. We believe that an undertaking of such magnitude requires a partial halt to our acceptance of AM broadcast applications. This step is essential so that we may avoid compounding present difficulties with a continuing flow of new assignments based upon existing, possibly inadequate, standards. We believe, however, that we should continue to process those applications currently on file and certain defined categories of new applications for which there are strong public interest considerations. We also find that there should be a brief period prior to the freeze becoming effective in which those with applications almost ready for filing can complete and file their documents. For this reason we conclude that the freeze should become effective at the close of business on April 5, 1990.

3. Accordingly, *It is ordered*, That effective at the close of business on April 5, 1990, applications for new AM broadcast stations or for changes in the facilities of existing stations, if otherwise acceptable under Commission rules, will be accepted for filing only in the following categories:

(1) Applications mutually exclusive with renewal of license applications of existing stations.

(2) Applications, timely filed in response to cut-off notices and mutually exclusive with applications tendered for filing on or before April 5, 1990. In order to avoid possible unfairness in implementing the freeze, applications filed after April 5, 1990 and accepted under this provision will be dismissed if the applicant subsequently submits a minor amendment that eliminates the basis for the mutual exclusively prior to or during the hearing process.

(3) Applications for minor changes necessitated by causes beyond the control of applicant, *e.g.* unavoidable loss of a transmitter site or compliance with FAA restrictions.

Applications now pending and those falling into categories (1)–(3), above, will be processed and acted upon under rules in force prior to April 5, 1990. Until further notice, those applications tendered for filing after April 5, 1990, that do not meet the interim criteria will be returned.

4. This action is taken pursuant to authority contained in sections 1, 4(i), 5(d), 303(c) and (r) and 309(b) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 155(d), 303(c) and (r) and 309(b). Pursuant to 5 U.S.C. 553(d)(3) we find that a delay in the effectiveness of this freeze could substantially undermine the goals we intend to achieve thereby. Accordingly, we find good cause to make this freeze effective at the close of business on April 5, 1990.

5. For further information concerning this proceeding, contact Larry Olson, Policy and Rules Division, Mass Media Bureau, (202) 632–6955.

Federal Communications Commission.

**Donna R. Searcy,**

*Secretary.*

[FR Doc. 90–8027 Filed 4–4–90; 8:45 am]

BILLING CODE 6712–01–M

## FEDERAL MARITIME COMMISSION

### Agreement(s) Filed; Port Authority of New York and New Jersey/Maher Terminals Inc.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Martime Commisson, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

**Agreement No.: 224–200341**

*Title:* The Port Authority of New York and New Jersey/Maher Terminals, Inc. Terminal Agreement.

*Parties:*

The Port Authority of New York and New Jersey

Maher Terminals, Inc. (Maher).

*Synopsis:* The Agreement permits Maher to use approximately 58,838 sq. ft. of area and railroad tracks adjacent to Maher's separately leased Fleet Street Container Terminal at the Elizabeth-Port Authority Terminal. The term of the Agreement expires February 15, 1991.

**Agreement No: 224–010684–002**

*Title:* Port Authority of New York and New Jersey/Maher Terminals, Inc. Terminal Agreement.

*Parties:*

Port Authority of New York and New Jersey

Maher Terminals, Inc. (Maher).

*Synopsis:* The Agreement extends the term of Agreement No. 224–010684, Maher's Port Newark Lumber Terminal Lease, until September 30, 1990.

By Order of the Federal Martitime Commission.

Dated: March 30, 1990.

**Joseph C. Polking,**

*Secretary.*

[FR Doc. 90–7826 Filed 4–4–90; 8:45 am]

BILLING CODE 6730–01–M

## FEDERAL RESERVE SYSTEM

### CSRA Bank Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

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

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than April 24, 1990.

**A. Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 100 Marietta Street, NW., Atlanta, Georgia 30303:

1. *CSRA Bank Corp.*, Wrens, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank, Wrens, Georgia.

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

1. *Citizens National Corporation*, Wisner, Nebraska; to acquire 100 percent of the voting shares of Leigh Corporation, Leigh, Nebraska, and thereby indirectly acquire Bank of Leigh, Leigh, Nebraska.

2. *Columbus Corp.*, Stanley, Kansas; to acquire 100 percent of the voting shares of Stanley Bank, Stanley, Kansas.

Board of Governors of the Federal Reserve System, March 30, 1990.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 90-7823 Filed 4-4-90; 8:45 am]

BILLING CODE 6210-01-M

### Paul E. Schams, et al.; Change in Bank Control Notices; Acquistions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 19, 1990.

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

1. *Paul E. Schams*, to acquire 100 percent of the voting shares of Gillespie Bancshares, Inc., De Soto, Wisconsin, and thereby indirectly acquire De Soto State Bank, De Soto, Wisconsin.

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

1. *John Dugan*, Wichita, Kansas, to acquire 13.89 percent; John Daley, Garden City, Kansas, to acquire 13.89 percent; Patrick Regan, Sr., Wichita, Kansas, to acquire 13.89 percent; William Higgins, Wichita, Kansas, to acquire 13.89 percent; Melvin Winger, Johnson, Kansas, to acquire 9.44 percent; R.D. Floyd, Johnson, Kansas, to acquire 9.44 percent; John Lewis, Syracuse, Kansas, to acquire 9.44 percent; Paul Dugan, Wichita, Kansas, to acquire 3.09 percent; Patrick Regan, Jr., Wichita, Kansas, to acquire 5.82 percent; Glenn Dugan, Goddard, Kansas, to acquire 5.82 percent; and Larry Caney, Wichita, Kansas, to acquire 1.39 percent of the voting shares of American National Bancshares of Wichita, Inc., Wichita, Kansas, and thereby indirectly acquire American National Bank of Wichita, Wichita, Kansas.

2. *Herb Albers, Jr.*, Wisner, Nebraska, to acquire an additional 22.12 percent for a total of 31.12 percent; Gene Ott, Wisner, Nebraska, to acquire an additional 8.18 percent of the voting shares for a total of 10.56 percent; Richard Kane, Wisner, Nebraska, to acquire an additional 10.06 percent for a total of 18.0 percent; Bruce Cheney, Norfolk, Nebraska, to acquire an additional 1.83 percent for a total of 4.18 percent; Kris Kvols, Wisner, Nebraska, to acquire an additional 3.38 percent for a total of 4.7 percent; Ron Kvols, Wisner, Nebraska, to acquire an additional 8.18 percent for a total of 10.56 percent; Lonnie Roth, Wisner, Nebraska, to acquire an additional 17.87 percent; Janice Herink, Leigh, Nebraska, to acquire an additional 0.43 percent for a total of 1.0 percent of the voting shares of Citizens National Corporation, Wisner, Nebraska, and thereby indirectly acquire The Citizens National Bank of Wisner, Wisner, Nebraska.

Board of Governors of the Federal Reserve System, March 29, 1990.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 90-7824 Filed 4-4-90; 8:45 am]

BILLING CODE 6210-01-M

### Texop Bancshares, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

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

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 April 24, 1990.

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

1. *Texop Bancshares, Inc.*, Dallas, Texas, and Texop Bancshares, II, Inc., Wilmington, Delaware; to acquire Texas American Life Insurance Company, Fort Worth, Texas, and thereby engage in selling credit life, disability, or involuntary unemployment insurance pursuant to § 225.25(b)(8) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, March 30, 1990.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 90-7825 Filed 4-4-90; 8:45 am]

BILLING CODE 6210-01-M

## FEDERAL TRADE COMMISSION

**[Dkt. C-3282]**

### New Jersey Movers Tariff Bureau, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

**AGENCY:** Federal Trade Commission.

**ACTION:** Consent order.

**SUMMARY:** In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, the Highland Park, N.J. based movers from entering into or maintaining any agreement to fix, maintain, or interfere with the prices charged by movers. The order also prohibits respondents from discussing or formulating agreements among movers concerning intrastate prices to be charged for the transportation of property or related services.

**DATES:** Complaint and Order issued January 19, 1990.[1]

**FOR FURTHER INFORMATION CONTACT:** Eugene Lipkowitz, New York Regional Office, Federal Trade Commission, 150 William St., 13th Floor, New York, N.Y. 10038. (212) 264-1207.

**SUPPLEMENTARY INFORMATION:** On Friday, November 3, 1989, there was published in the **Federal Register**, 54 FR 46462, a proposed consent agreement with analysis In the Matter of New Jersey Movers Tariff Bureau, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist in disposition of this proceeding.

**Authority:** Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 90-7869 Filed 4-4-90; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, N.W., Washington, DC 20580.

**[Dkt. C-3283]**

### Oklahoma State Board of Veterinary Medical Examiners; Prohibited Trade Practices, and Affirmative Corrective Actions

**AGENCY:** Federal Trade Commission.

**ACTION:** Consent order.

**SUMMARY:** In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, the five member board, which is the sole licensing authority for veterinarians in Oklahoma, from restricting any veterinarian from being partners with, employed by or otherwise associating with non-veterinarians. Respondent also is prohibited from restricting any veterinarian from providing testimonials or making endorsements regarding veterinary products and services.

**DATES:** Complaint and Order issued January 31, 1990.[1]

**FOR FURTHER INFORMATION CONTACT:** James Elliott, Dallas Regional Office, Federal Trade Commission, 100 N. Central Expressway, Suite 500, Dallas, TX 75201. (214) 767-5503.

**SUPPLEMENTARY INFORMATION:** On Tuesday, August 15, 1989, there was published in the **Federal Register**, 54 FR 33610, a proposed consent agreement with analysis In the Matter of Oklahoma State Board of Veterinary Medical Examiners, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist in disposition of this proceeding.

**Authority:** Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 90-7870 Filed 4-4-90; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

## GENERAL SERVICES ADMINISTRATION

### Information Collection Activities Under Office of Management and Budget Review

**AGENCY:** Information Resources Management Services (KECT), GSA.

**SUMMARY:** The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to renew expiring information collection 3090-0066, Contractor's Report of Services Ordered/Delivered. GSA collects the information to establish volume discounts, to make sure that services delivered match invoices, to confirm payment, and to project usage for budget hearings.

**ADDRESSES:** Send comments to Bruce McConnell, GSA Desk Officer, Room 3235, NEOB, Washington, DC, 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), 18th & F Street NW., Washington, DC 20405. Annual Reporting Burden: Respondents: 30; annual responses: 4.0; average hours per response: 4.0000; burden hours: 480.

**FOR FURTHER INFORMATION CONTACT:** Rhonda Cundiff, (202) 566-1275. Copy of Proposal: May be obtained from the Information Collection Management Branch (CAIR), Room 3014, GSA Building, 18th & F St. NW., Washington, DC 20405, by telephoning (202) 535-7691, or by faxing your request to (202) 786-9027.

Dated: March 22, 1990.

**Emily C. Karam,**

*Director, Information Management Division.*

[FR Doc. 90-7747 Filed 4-4-90; 8:45 am]

BILLING CODE 6820-25-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control

### Interagency Committee on Smoking and Health; Change of Meeting

This notice announces a change in the date of a previously announced meeting.

Federal Register Citation of Previous Announcement: March 27, 1990, 55 FR 11264.

Previously Announced Time and Date: 9 a.m.–4 p.m., May 16, 1990.

Change in the Meeting: The Committee will meet on Thursday, May 31, 1990.

Dated: March 30, 1990.

Elvin Hilyer,

*Associate Director for Policy Coordination, Centers for Disease Control.*

[FR Doc. 90–7821 Filed 4–4–90; 8:45 am]

BILLING CODE 4160–18–M

### Food and Drug Administration

[Docket No. 90P–0083]

### Sour Cream Deviating From Identity Standard; Temporary Permit for Market Testing

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to the Superior-Dairy Fresh Milk Co. to market test a product designated as "lite sour cream" that deviates from the U.S. standard of identity for sour cream (21 CFR 131.160). The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the product.

**DATES:** This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than July 5, 1990.

**FOR FURTHER INFORMATION CONTACT:** Shellee A. Davis, Center for Food Safety and Applied Nutrition (HFF–414), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–485–0106.

**SUPPLEMENTARY INFORMATION:** In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to the Superior-Dairy Fresh Milk Co., 2112 Broadway NE., Minneapolis, MN 55413.

The permit covers limited interstate marketing tests of a product that deviates from the U.S. standard of identity for sour cream in 21 CFR 131.160 in that: (1) The fat content of the product is reduced from 18 percent to 7 percent, and (2) sufficient vitamin A palmitate is added in a suitable carrier to ensure that a 2-tablespoon serving of the product contains 4 percent of the U.S. Recommended Daily Allowance for vitamin A. The product meets all requirements of the standard with the exception of these deviations. The purpose of the variation is to offer the consumer a product that is nutritionally equivalent to sour cream but contains fewer calories and less fat.

For the purpose of this permit, the name of the product is "lite sour cream." The principal display panel of the label must include the statements "reduced calories" and "reduced fat" following the name. In addition, the label must bear the comparative statements "50% fewer calories" and "60% less fat than regular sour cream."

The product complies with the reduced calorie labeling requirements in 21 CFR 105.66(d). In accordance with FDA's current views, reduced fat food labeling is acceptable because there is at least a 50-percent reduction in the fat content of the product. The information panel of the label will bear nutrition labeling in accordance with 21 CFR 101.9.

This permit proivides for the temporary marketing of 8,000 16-ounce packages of the test product. The product will be manufactured at Marigold Foods, Inc., 15 Fourth Street Farmington, MN 55074, and distributed in Minnesota and Wisconsin.

Each of the ingredients used in the food must be stated on the label as required by the applicable sections of 21 CFR part 101. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than July 5, 1990.

Dated: March 28, 1990.

Fred R. Shank,

*Director, Center for Food Safety and Applied Nutrition.*

[FR Doc. 90–7832 Filed 4–4–90; 8:45 am]

BILLING CODE 4160–01–M

### Advisory Committee; Meeting

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

**MEETING:** The following advisory committee meeting is announced:

#### Blood Products Advisory Committee

*Date, time, and place.* April 20, 1990, 9 a.m., Conference Rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

*Type of meeting and contact person.* Open public hearing, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 4 p.m.; Linda A. Smallwood, Division of Blood and Blood Products (HFB–400), Center for Biologics Evaluation and Research, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301–496–4396.

*General function of the committee.* The committee reviews and evaluates available data on the safety, effectiveness, and appropriate use of blood products intended for use in the diagnosis, prevention, or treatment of human diseases.

*Agenda—Open public hearing.* Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the committee contact person.

*Open committee discussion.* On the morning of April 20, 1990, the committee will review and discuss the appropriateness of blood donor self-exclusion criteria related to the human immunodeficiency virus (HIV) which currently apply to persons born in or emigrating from Haiti and countries of sub-Saharan Africa or nearby islands. Discussion of this issue will continue until the evening of the same day.

FDA is giving less than 15 days public notice of the Blood Products Advisory Committee meeting because it involves an urgent response to a public health issue regarding deferral criteria for prospective blood donors based on geographical exclusion. There is no regularly scheduled meeting in the near future, and the agency decided that it was in the public interest to hold this meeting on April 20, 1990, even if there was not sufficient time for the customary 15-day public notice.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public

hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for and open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI(-35), Food and Drug Administration, rm. 12A-16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Docket Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: March 29, 1990.

**Alan L. Hoeting,**

*Acting Associate Commissioner for Regulatory Affairs.*

[FR Doc. 90-7750 Filed 4-4-90; 8:45 am]

BILLING CODE 4160-01-M

## Health Care Financing Administration

**[OIS-008-N]**

## Quarterly Listing of Program Issuances

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** General notice.

**SUMMARY:** This notice lists HCFA manual instructions, regulations and other **Federal Register** notices, and statements of policy that were published during October, November and December 1989 that relate to the Medicare program. Section 1871(c) of the Social Security Act requires that we publish a list of our Medicare issuances in the **Federal Register** every three months.

**FOR FURTHER INFORMATION CONTACT:**

Allen Savadkin, (301) 966-5265 (for instruction information only).

Matt Plonski, (301) 966-4662 (for all other information).

**SUPPLEMENTARY INFORMATION:**

### I. Program Issuances

The Health Care Financing Administration (HCFA) is responsible for administering the Medicare program, a program which pays for health care and related services for 34 million Medicare beneficiaries. Administration of the program involves effective communications with regional offices, State governments, various providers of health care, fiscal intermediaries and carriers who process claims and pay bills, and others. To implement the various statutes on which the program is based, we issue regulations under authority granted the Secretary under sections 1102 and 1871 and related provisions of the Social Security Act (the Act) and also issue various manuals, memoranda, and statements necessary to administer the program efficiently.

Section 1871(c)(1) of the Act requires that we publish in the **Federal Register** no less frequently than every three months a list of all Medicare manual instructions, interpretative rules, statements of policy, and guidelines of general applicability. This is the eighth listing of issuances. As in prior notices, although both substantive and interpretive regulations published in the **Federal Register** in accordance with section 1871(a) of the Act are not subject to the publication requirements of section 1871(c), for the sake of completeness of the listing of operational and policy statements we are including regulations (proposed and final) published.

### II. Coverage Issues

Beginning with our listing of publications issued during the period July through September 1989 (55 FR 10290), we included the text of changes to the Coverage Issues Manual. In this manner, we implement the policy announced in the **Federal Register** on August 21, 1989 (54 FR 34555) that we will issue quarterly or more often the revisions to that manual. Revisions to the Coverage Issues Manual are not published on a regular basis but on an as needed basis. We publish revisions as a result of technological changes, medical practice changes, or in response to inquiries we receive seeking clarification or resolution of a coverage issue under Medicare. Sometimes no Coverage Issues Manual revisions were published during a particular quarter, as during the quarter covered by this listing. Our listing notes that fact. For a complete listing of coverage determinations issued interested parties should review our publications dated August 21, 1989 (54 FR 34555) and March 20, 1990 (55 FR 10290).

#### *A. How to Use the Listing*

This notice is organized so that a reader may review the subjects of all manual issuances, memoranda, or regulations published during this timeframe to determine whether any are of particular interest. We expect it to be used in concert with previously

published notices. Most notably, those unfamiliar with a description of our manuals may wish to review Table I of our first three notices; those desiring information on the Medicare Coverage Issues Manual may wish to review the August 21, 1989 (54 FR 34555) publication; and those seeking information on the location of regional depository libraries may wish to review Table IV of our first notice (June 9, 1988, 53 FR 21736). We have divided this current listing into three tables.

Table I describes where interested individuals can get a description of all previously published HCFA manuals and memoranda.

Table II of this notice lists, for each of our manuals or Program Memoranda, a transmittal number unique to that instruction and a brief statement of its subject matter. The subject matter in a transmittal may consist of a single instruction or many. Often it is necessary to use information in a transmittal in conjunction with information currently in the manuals.

Table III lists all Medicare and Medicaid regulations and general notices published in the **Federal Register** during this period. For each item, we list the date published, the title of the regulation, and the parts of the Code of Federal Regulations (CFR) which have changes.

*B. How to Obtain Listed Material*

• *Manuals.* An individual or organization interested in routinely receiving any manual and revisions to it may purchase a subscription to that manual. Those wishing to subscribe should contact either the Government Printing Office (GPO) or the National Technical Information Service (NTIS) at the following addresses: Superintendent of Documents, Government Printing Office, Washington, DC 20402. Telephone (202) 783–3238; National Technical Information Service, Department of Commerce, 5825 Port Royal Road, Springfield, Va. 22161. Telephone (703) 487–4630.

In addition, individual manual transmittals and Program Memoranda listed in this notice can be purchased from NTIS. Interested parties should identify the transmittal(s) they want. GPO or NTIS will give complete details on how to obtain the publications they sell.

• *Regulations and Notices.* Regulations and notices are published in the daily **Federal Register**. Interested individuals may purchase individual copies or may subscribe to the **Federal Register** by contacting the Government Printing Office at the following address: Superintendent of Documents, Government Printing Office, Washington, DC 20402, Telephone (202) 783–3238. When ordering individual copies, it is necessary to cite either the date of publication or the volume number and page number.

• *Rulings.* Rulings are published on an infrequent basis by HCFA. Interested individuals can obtain copies from the nearest HCFA regional office or review them at the nearest regional depository library.

*C. How to Review Listed Material*

Transmittals or Program Memoranda can be reviewed at a local Federal Depository Library (FDL). Under the Federal Depository Library Program, government publications are sent to approximately 1400 designated libraries throughout the United States. Interested parties may examine the documents at any one of the FDLs. Some may have arrangements to transfer material to a local library not designated as an FDL. To locate the nearest FDL, individuals should contact any library.

In addition, individuals may contact regional depository libraries, which receive and retain at least one copy of nearly every Federal Government publication, either in printed or microfilm form, for use by the general public. These libraries provide reference services and interlibrary loans; however, they are not sales outlets. Individuals may obtain information about the location of the closest regional depository library from any library.

Superintendent of Documents numbers for each HCFA publication are shown in Table II, along with the HCFA publication and transmittal numbers. To help FDLs locate the instruction, use the Superintendent of Documents number, plus the HCFA transmittal number. For example to find the Intermediary Manual Part 3—Claims Process (HCFA-Pub. 13-3) transmittal containing "Claims Processing Timeliness" use the Superintendent of Documents number HE 22.8/6 and the HCFA transmittal number 1450.

*D. General Information*

It is possible that an interested party may have a specific information need and not be able to determine from the listed information whether the issuance or regulation would fulfill that need. Consequently, we are providing information contact persons to answer general questions concerning these items. Copies are not available through the contact persons. Individuals are expected to procure copies or arrange to review them as noted above.

Questions concerning items in Tables I or II may be addressed to Allen Savadkin, Office of Issuances, Health Care Financing Administration, Room 688 East High Rise, 6325 Security Blvd., Baltimore, MD 21207; Telephone (301) 966–5265.

Questions concerning all other information may be addressed to Matt Plonski, Regulations Staff, Health Care Financing Administration, Room 132 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, Telephone (301) 966–4662.

**Table I—Description of Manuals, Memoranda and HCFA Rulings**

An extensive descriptive listing of manuals and memoranda was previously published at 53 FR 21731 and supplemented at 53 FR 36892 and 53 FR 50579. Also, for a complete descriptive listing of the Medicare Coverage Issues Manual please review 53 FR 34555.

TABLE II—MEDICARE MANUAL INSTRUCTIONS, OCTOBER—DECEMBER 1989

| Trans. No. | Manual/Subject/Publication Number |
|---|---|
| | Intermediary Manual<br>Part 2—Audits, Reimbursement, Program Administration (HCFA-Pub. 13-2)<br>(Superintendent of Documents No. HE 22.8/6.2) |
| 372 | • Assessment of Benefit Savings Attributable to Medical Review Activities<br>Types of Savings to Report—Denials<br>Completion of the RBS<br>Data from Automated System<br>Denials Paid Under Waiver of Liabilty |
| | Intermediary Manual<br>Part 3—Claims Process (HCFA-Pub. 13-3)<br>(Superintendent of Documents No. HE 22.8/6) |

TABLE II—MEDICARE MANUAL INSTRUCTIONS, OCTOBER—DECEMBER 1989—Continued

| Trans. No. | Manual/Subject/Publication Number |
|---|---|
| 1444 | · Medical Review of End-Stage Renal Disease Claims |
| 1445 | · Frequency of Billing |
| | Adjustment Bills |
| 1446 | · Medical Review of Home Health Services |
| | HCFA-485—Home Health Certification and Plan of Treatment Data Elements |
| | HCFA-486—Medical Update and Patient Information |
| | Treatment Codes for Home Health Services |
| | Coverage Compliance Review |
| 1447 | · Allogeneic Bone Marrow Transplantations |
| | Medical Review for Coverage of Skilled Nursing Services |
| 1448 | · Time Limitations for Filing Provider Claims |
| | Appeals Procedures |
| 1449 | · Epoetin Alfa |
| 1450 | · Claims Processing Timeliness |
| 1451 | · Review of Form HCFA-1450 for Inpatient and Outpatient Bills |
| 1452 | · Alphabetic Glossary of Data Elements |
| 1453 | · Billing for Diagnostic Lab Tests |
| 1454 | · HCPCS for Hospital Outpatient Radiology and Other Diagnostic Services |
| | Carriers Manual |
| | Part 2—Program Administration (HCFA-Pub. 14-2) |
| | (Superintendent of Documents No. HE 22.8/7-3) |
| 110 | · Postpayment Controls |
| | Prepayment Controls |
| | Carriers Manual |
| | Part 3—Claims Process (HCFA-Pub. 14-3) |
| | (Superintendent of Documents No. HE 22.8/7) |
| 1325 | · Payment of Claims in Accordance with Part B Limit on Beneficiary Out-of-Pocket Expenses |
| | Special Issues Relating to each System |
| | Special Issues Relating to CCM: Assignment of Beneficiaries to Carriers-of-Record |
| | EOMB Messages |
| | Special Issues Relating to CWF: Tracking the Cap |
| | Special Circumstances Affecting Amount Posted to Limit |
| | Payment of Claims that "Straddle the Cap" |
| | CCM Carriers |
| | CWF Satellites |
| | Payment of Claims that "Straddle the Cap" and Involve More Than One Physician/Supplier |
| | Payment of Claims tht "Straddle the Cap" and Beneficiary Must Be Reimbursed Due to Beneficiary Preparyment of Out-of-Pocket Expenses—CCM Carriers and CWF Satellites |
| | Effect of Postpay Review Adjustments on the Cap |
| | Beneficiary Inquiries Affecting Cap Status |
| | Code 78 Automatic Notice |
| | Trailer Code L—Catastrophic Cap Amount Posted |
| | Trailer Code Q—Carrier of Record Trailer |
| | Trailer Code W |
| | Preparation of Payment Records for Bills which Indicate Medicare as the Secondary Payer |
| | Preparation of Payment Records for Bills Covering Mammography Screening |
| | Positions 51—68 |
| | Positions 69—80 |
| | Incorrect Payment Under Catastrophic Cap Limitation |
| | Part B Payment Record Alerts |
| | Change of Carrier Name and/or Address for Payment Record Data |
| | Part B Payment Record Catastrophi Coverage |
| 1326 | · General Billing and Claims Processing Requirements |
| | Payment Determinations |
| | Special Requirements for Oxygen Claims |
| | EOMB Messages |
| | Oxygen HCPCS Code |
| | Oxygen Equipment and Contents Billing Chart |
| 1327 | · List of Covered Surgical Procedures |
| 1328 | · Postpayment Process Requirements |
| | Postpayment Process Review |
| | Treatment of Sanctions, Civil Monetary Penalty Cases and Cost Exclusions |
| | Prepayment Controls—General |
| | HCFA Mandated Prepayment Screens |
| | Completion of Items on Carrier Medical Review Report |
| 1329 | · Direct Patient Care Services |
| | Injections Furnished to ESRD Beneficiaries |
| | Epoetin Alfa |
| | Reasonable Charge Screens for Injections |
| 1330 | · Monitoring Procedures |
| | Charge Limit Violations |
| | Carrier Charge Limits Report |
| 1331 | · Carrier Beneficiary Overpayment Activity Report |
| | Carriers Manual |
| | Part 4—Professional Relations (HCFA-Pub. 14-4) |
| | (Superintendent of Documents No. HE 22.8/7-4) |
| 2 | · Maintenance of the Physician Registry |
| | General |
| | Add Records |
| | Update Records |

TABLE II—MEDICARE MANUAL INSTRUCTIONS, OCTOBER—DECEMBER 1989—Continued

| Trans. No. | Manual/Subject/Publication Number |
|---|---|
| | Rejections |
| | Exceptions |
| | Batching Procedures |
| | Privacy Act Requirements |
| | Restriction on Release of UPINs |
| | Release of UPINs to Physicians |
| | Carrier Registry Telecommunications Interface |
| | Relay Gold |
| | File Transfer |
| | Registry Customer Information Control System |
| | T-Mail |
| | Program Memorandum |
| | Intermediaries (HCFA-Pub. 60A) |
| | (Superintendent of Documents No. HE 22.8/6-5) |
| A-89-10 | · Planning for Changes in ICD-9-CM Coding Effective October 1, 1989 (Attachments to Intermediaries Only) |
| A-89-11 | · Changes for FY 90 Due to P.L. 99-177 (Gramm-Rudman-Hollings) |
| A-89-12 | · Reopening of Exception Process Under the End Stage Renal Disease Composite Rate System |
| A-89-13 | · Growing Inventory of Frozen Beneficiary Records |
| A-89-14 | · Updated Data for Determining Additional Payment Amounts for Hospitals With a Disproportionate Share of Low Income Patients |
| A-89-15 | · Implementation of FY 1990 Medicare Prospective Payment System Changes (Attachment to Intermediaries Only) |
| A-89-16 | · Payment for Laboratory Allergy, Organ or Disease Panels/Profiles |
| A-89-17 | · List of Excluded Technical or Professional Codes With the Corresponding Global Codes for Other Diagnostic Services |
| | Program Memorandum |
| | Carriers (HCFA-Pub. 60B) |
| | (Superintendent of Documents No. HE 22.8/6-5) |
| B-89-17 | · Collection of Supplier Identification Data |
| B-89-18 | · Customary and Prevailing Charge Updates and Physician and Supplier Opportunity to Terminate Participation Agreements |
| B-89-19 | · Instructions for Implementing the Balanced Budget and Emergency Deficit Control Act of 1985 |
| B-89-20 | · Rural Health Clinic Claims for Physician Assistant Services and Nurse Midwife Services |
| B-89-21 | · Installation of Validation Edits for ICD-9-CM Codes |
| | Program Memorandum |
| | Intermediaries/Carriers (HCFA-Pub. 60A/B) |
| | (Superintendent of Documents No. HE 22.8/6-5) |
| AB-89-8 | · Inappropriate Referrals to HOSPICELINK |
| AB-89-9 | · 1989 National Limitation Amounts for Clinical Diagnostic Laboratory Services |
| | Program Memorandum |
| | Health Maintenance Organization/Competitive |
| | Medical Plan (HCFA-Pub. 76) |
| | (Superintendent of Documents No. HE 22.28/2) |
| 89-1 | · Implementation of the Gramm-Rudman-Hollings Legislation |
| | Program Memorandum |
| | Quality Assurance Handbook (HCFA-Pub. 26) |
| | (Superintendent of Documents No. HE 22.28/3) |
| 89-1 | · Implementation of the Gramm-Rudman-Hollings Payment Reductions |
| | State Operations Manual |
| | Provider Certification (HCFA-Pub. 7) |
| | (Superintendent of Documents No. HE 22.8/12) |
| 233 | · Prioritizing Survey Workload |
| | Conducting Initial Surveys and Scheduled Resurveys |
| | RO Requests for Additional Development |
| | Basis for Accredited Hospital Complaint Investigation |
| | RO Direction of Accredited Hospital Complaint Investigtion |
| | Processing General, Certification-Related Complaints |
| | State Agency Complaint Management |
| | State Agency Responsibility for Staff Training and Development |
| | Federal Surveyor Qualification Standards |
| | Financial Accountrability Statement for State Survey Program, HCFA-1469 Submittal and Due Date |
| | Interim Reports |
| | State Survey Agency Quarterly Expenditure Report, HCFA-1469A Submittal and Due Date |
| | Preparation of the Financial Accountability Statement for Health Insurance Program, HCFA-1469A |
| | Preparation of State Survey Agency Quarterly Expenditure Report, HCFA-1469A |
| | Preparation of State Survey Agency Qualterly Expenditure Report, Long Term Care Facility Workload, HCFA-2824 |
| | Routing of Quartery Expenditure Report, HCFA-2824 |
| | Medicare/Medicaid Automated Certification System: State Survey Agency Certification Workload Report Form, HCFA-434 |
| | Statement of Deficiencies and Plan of Correction, HCFA-2567 |
| | Follow-Up on Plans of Correction |
| 234 | · Home Health Agency Toll-Free Hotline and Investigative Unit |
| | Nurse Aide Registry |
| 235 | · interpretive Guidelines, Outpatient Physical Therapy or Speech Pathology Services |
| | Interpretive Guidelines, Physical Therapist in Independent Practice |
| 236 | · Change in Certification Status for Medicaid SNFs and Medicaid Distinct Part SNFs |
| | Change in Size or Location of Distinct Part Skilled Nursing Facility |
| | Regional Office Manual |
| | Part 4—Standards and Certification (HCFA-Pub. 23-4) |
| | (Superintendent of Documents No. HE 22.8/8-3) |
| 44 | · Review of State Agency Certifications |
| | Intermediary Assistance on Cost Reporting Considerations in Distinct Part SNF Medicare Certification |
| | Hospital Manual (HCFA-Pub. 10) |
| | (Superintendent of Documents No. HE 22.82-2) |
| 574 | · Billing Procedures—General |

TABLE II—MEDICARE MANUAL INSTRUCTIONS, OCTOBER—DECEMBER 1989—Continued

| Trans. No. | Manual/Subject/Publication Number |
|---|---|
| | Frequency of Billing |
| 575 | · Allogeneic Bone Marrow Transplantations<br>Billing for Marrow Acquisition Services |
| 576 | · Epoetin Alfa |
| 577 | · Claims Processing Timeliness |
| 578 | · Billing for Diagnostic Lab Tests |
| 579 | · HCPCS for Hospital Outpatient Radiology and Other Diagnostic Services |
| | Christian Science Sanatorium<br>Hospital Manual Supplement (HCFA-Pub. 32)<br>(Superintendent of Documents No. HE 22.8/2-2) |
| 26 | · Claims Processing Timeliness |
| | Home Health Agency Manual<br>(HCFA-Pub. 11)<br>(Superintendent of Documents No. HE 22.8/5) |
| 228 | · Data Elements Needed to Render a Home Health Coverage Determination<br>HCFA-485 Home Health Certification and Plan of Treatment<br>HCFA-486 Medical Update and Patient Information<br>Treatment Codes for Home Health Services |
| 229 | · Claims Processing Timeliness |
| | Skilled Nursing Facility<br>(HCFA-Pub. 12)<br>(Superintendent of Documents No. HE 22.8/3) |
| 287 | · Claims Processing Timeliness |
| | Rural Health Clinic Manual<br>(HCFA-Pub. 27)<br>(Superintendent of Documents No. HE 22.8/19:985) |
| 37 | · Claims Processing Timeliness |
| | Renal Dialysis Facility Manual<br>(Non-Hospital Operated) (HCFA-Pub. 29)<br>(Superintendent of Documents No. HE 22.8/13) |
| 42 | · Epoetin Alfa |
| 43 | · Claims Processing Timeliness |
| | Hospice Manual (HCFA-Pub. 21)<br>(Superintendent of Documents No. HE 22.8/18) |
| 25 | · Claims Processing Timeliness |
| | Outpatient Physical Therapy<br>and<br>Comprehensive Outpatient Rehabilitation<br>Facility Manual (HCFA-Pub. 9)<br>(Superintendent of Documents No. HE 22.8/9) |
| 92 | · Claims Processing Timeliness |
| | Coverage Issues Manual (HCFA-Pub. 6)<br>(Superintendent of Documents No. HE 22.8/14)<br>There were no revision published during this quarter<br>Provider Reimbursement Manual<br>Part I—(HCFA-Pub. 15-1)<br>(Superintendent of Documents No. HE 22.8/4) |
| 352 | · Index |
| 353 | · Routine Services in SNFs |
| | · Ancillary Services in SNFs |
| 354 | · Travel Expense |
| | Provider Reimbursement Manual<br>Part II—Provider Cost Reporting<br>Forms and Instructions (HCFA-Pub. 15-II-A)<br>(Superintendent of Documents No. HE 22.8/4) |
| 10 | · Services Rendered Beginning October 17, 1989, Through September 30, 1990 |
| | Provider Reimbursement Manual<br>Part II—Provider Cost Reporting<br>Forms and Instructions (Hospital) (HCFA-Pub. 15-II-X)<br>(Superintendent of Documents No. HE 22.8/4) |
| 1 | · Cost Reporting Periods Beginning on or After January 1, 1989 |

TABLE III.—REGULATIONS AND NOTICES PUBLISHED OCTOBER–DECEMBER, 1989

| Publication Date/ Cite | 42 CFR Part | Title |
|---|---|---|
| **Final Rules** | | |
| 10/11/89 (54 FR 41716). | 405, 411, 412, 489. | Medicare Program; Medicare as Secondary Payer and Medicare Recovery Against Third Parties. |
| 11/6/89 (54 FR 46614). | ..... | Medicare Programs; Physician Involvement in Physical Therapy and Speech Pathology Services (Corrects final rule published 09/20/89 (54 FR 39677)). |
| 12/29/89 (54 FR 53611). | 405, 442, 447, 483, 488, 489, 498. | Medicare and Medicaid Programs; Requirements for Long-Term Care Facilities: Delay in Effective Date of Regulations. |
| **Proposed Rules** | | |
| 11/08/89 (54 FR 46937). | ..... | Medicare Program; Catastrophic Outpatient Drug Benefit—Extension of Public Comment Period (This notice extended the public comment period for the following proposed rules published 09/07/89 (54 FR 37190); 09/07/89 (54 FR 37208); 09/07/89 (54 FR 37239); 09/08/89 (54 FR 37422). |
| 11/08/89 (54 FR 46938). | 414..... | Medicare Program; Payment for Home Intravenous Drug Therapy Services. |
| 11/08/89 (54 FR 46988). | ..... | Medicare Program; Outpatient Prescription Drugs; List of Covered Home IV Drugs—Extension of Public Comment Period. |

TABLE III.—REGULATIONS AND NOTICES PUBLISHED OCTOBER–DECEMBER, 1989—Continued

| Publication Date/ Cite | 42 CFR Part | Title |
|---|---|---|
| **Notice** | | |
| 10/02/89 (54 FR 40527). | ..... | Medicare and Medicaid Programs; Meeting of the Quadrennial Advisory Council on Social Security. |
| 10/25/89 (54 FR 43493). | ..... | Medicare Program; Data, Standards and Methodology Used to Establish Budgets for Fiscal Intermediaries and Carriers. |
| 10/26/89 (54 FR 43619). | ..... | Medicare Program; SNF Coinsurance Amount for 1990. |
| 10/27/89 (54 FR 43862). | ..... | Medicare Program; Monthly Actuarial Rates, Supplementary Medical Insurance Premium Rate, and Catastrophic Coverage Premiums Beginning 1/1/90 (Corrections published 12/07/89). |
| 11/16/89 (54 FR 47678). | ..... | Medicare Program; Medicare as Secondary Payer and Medicare Recovery Against Third Parties; Publication of Court Orders. |
| 11/22/89 (54 FR 48322). | ..... | Medicare Program; Part A Premium for the Uninsured Aged for 1990. |
| 11/24/89 (54 FR 48689). | ..... | Medicare and Medicaid Programs; ICD-9-CM Coordination and Maintenance Committee Meeting. |
| 11/24/89 (54 FR 48689). | ..... | Medicare and Medicaid Programs; Meeting of the Advisory Council on Social Security. |
| 12/11/89 (54 FR 51008). | ..... | Medicare Program; Claims Payment Cycle. |

TABLE III.—REGULATIONS AND NOTICES PUBLISHED OCTOBER–DECEMBER, 1989—Continued

| Publication Date/ Cite | 42 CFR Part | Title |
|---|---|---|
| 12/29/89 (54 FR 53753). | ..... | Medicare Program; Legislative Changes Concerning Payment to Hospitals for Federal Fiscal Year 1990. |
| 12/29/89 (54 FR 53818). | ..... | Medicare Program; Physician Performance Standard Rate of Increase for Federal Fiscal Year 1990. |

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program; No. 13.773, Hospital Insurance, and Program No. 13.774, Medicare-Supplementary Medical Insurance Program)

Dated: March 23, 1990.

**Gail R. Wilensky,**

*Administrator, Health Care Financing Administration.*

[FR Doc. 90–7867 Filed 4–4–90; 8:45 am]

BILLING CODE 4120–01–M

## Public Health Service

### Alcohol, Drug Abuse, and Mental Health Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, chapter HM, Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (39 FR 1654, January 11, 1974, as amended most recently at 55 FR 1097, January 11, 1990) is amended to reflect changes in the Office of the Administrator (OA), ADAMHA. These changes are being made in order to reflect the current activities of certain division-level components of OA. In addition, technical updating changes are being incorporated such as revisions to standard administrative codes of all of the division-level components of OA.

*Alcohol, Drug Abuse, and Mental Health Administration.*

Delete the following standard administrative codes from the Office of the Administrator (HMA), Alcohol, Drug Abuse, and Mental Health Administration:

HMA2–5 Division of Policy, Planning and Evaluation
HMA2–7 Division of Legislation and Policy Implementation
HMA5–1 Division of Extramural Programs
HMA5–2 Division of Program Analysis
HMA7–3 Division of Financial Management
HMA7–4 Division of Management Policy and Operations
HMA7–6 Division of Grants and Contracts Management
HMA7–7 Division of Information Systems Management
HMA7–8 Division of Personnel Management

Add the following standard administrative codes for the Office of the Administrator (HMA), Alcohol, Drug Abuse, and Mental Health Administration:

HMA74 Division of Management Policy and Operations
HMA77 Division of Information Systems Management

Section HM–B, Organization and Functions, Alcohol, Drug Abuse, and Mental Health Administration (HM); Office of the Administrator (HMA), is amended as follows:

Following the statement for the Office of Policy Coordination (HMA2); insert the following titles and statements:

*Division of Policy, Planning, and Evaluation (HMA25):* (1) Coordinates the development of the agency's annual program planning process, working closely with the Office of Management;

(2) Provides expertise and technical advice in the planning, coordination, and evaluation of the agency's policies and programs;

(3) Identifies, develops, and coordinates for the agency short-term and long-term analyses of new and existing key policy issues relating to the coordination of research, human resources development, prevention and treatment of alcoholism, drug abuse, and mental illness;

(4) Maintains liaison among Federal, State, and local government planning staffs around planned activities in the alcohol, drug abuse, and mental health area;

(5) Develops briefing materials and conducts briefings for the Administrator and the Associate Administrator for Policy Coordination; and

(6) Provides coordination, guidance, and leadership for the agency's international activities.

*Division of Legislation and Policy Implementation (HMA27):* (1) Serves as the principal advisor to the Administrator concerning the development of legislation including the need for the legislation changes based on scientific development;

(2) Directs and coordinates ADAMHA legislative activities (including the development and analysis of health policy);

(3) Coordinates the clearance of statutorily-required reports to the Congress;

(4) Prepares agency legislative implementation plans;

(5) Prepares and briefs witnesses for appearances before the Congress;

(6) Maintains liaison with the Congress and all relevant Executive Branch Departments on all matters of legislation and implementation of legislation;

(7) Maintains a legislative, regulatory, and legal library which serves as a resource for the entire agency;

(8) Provides executive coordination and implementation support services to the Administrator, including coordination of cross-cutting issues, initiatives, and activities; and

(9) Serves as the focal point for coordination of agency regulatory activities.

Following the statement for the Office of Extramural Programs (HMA5), insert the following titles and statements:

*Division of Extramural Programs (HMA52):* (1) Provides leadership, advice and coordination for the development of policies governing extramural programs; develops and coordinates implementation of policies concerning the operation of extramural programs, peer review, and ethical issues in research;

(2) Performs centralized grant application receipt and referral; and

(3) Develops policies and provides coordination for committee management.

*Division of Program Analysis (HMA53):* (1) Provides for the collection, analysis, and presentation of agency-level data on extramural programs and processes;

(2) Assesses and evaluates extramural programs and mechanisms;

(3) Performs special analyses as requested relating to extramural policy issues; and

(4) In conjunction with the ADAMHA Institutes, studies and develops policy and provides coordination on research infrastructure issues including research personnel availability and training, instrumentation, facilities, and national resources.

Following the statement for the Office of Management (HMA7), under the heading Division of Financial Management (HMA73), delete the statement in its entirety, and add the following statement:

*Division of Financial Management (HMA73):* (1) Plans and coordinates the agency's financial management activities;

(2) Provides financial data input for the agency's planning activities;

(3) Develops the agency's annual budget and participates in budget hearings;

(4) Provides liaison between HRSA accounting and other fiscal services to the agency;

(5) Develops financial management reporting systems to meet the needs of agency planning and decisionmaking; and

(6) Manages the position control system for the agency, including the utilization of full-time equivalent positions.

Under the heading Division of Grants and Contracts (HMA76), delete the statement in its entirety, and add the following:

*Division of Grants and Contracts Management (HMA76):* (1) Develops and issues policies, standards, procedures, forms, and guides for the management of agency grants, cooperative agreements, small purchases, and contracts (negotiated as well as advertised), and monitors their application or use;

(2) Serves as the focal point for interpreting regulations, policies, and procedures concerning agency grants, cooperative agreements, small purchases, and contracts;

(3) Provides grants and contracts cost advisory services to the agency;

(4) Administers the agency's system of informal grantee appeal on adverse actions;

(5) Coordinates agency actions on audit reports and determines final resolution;

(6) Reviews and decides upon proposed contract actions as stipulated in departmental and PHS procurement regulations; and

(7) Administers the grants management functions as required for the operation of the Alcohol and Drug Abuse and Mental Health Services block grants.

Under the heading Division of Personnel Management (HMA78), delete the statement in its entirety, and add the following:

*Division of Personnel Management (HMA78):* Provides leadership and direction in developing and administering the personnel management program for the agency, including: (1) Central personnel services in such areas as placement and staffing, position classification and pay management, employee management

relations, labor relations, career development and training, and performance management;

(2) Advisory service to top management on matters relating to the development and administration of personnel policies and programs designed to obtain, compensate, train and develop, utilize, and retain a qualified, effective and efficient work force;

(3) Advisory service to managers and supervisors in such matters as supervisor-employee relations and communications, motivation and recognition, training and development and employee services;

(4) Agency focal point for advisory services regarding the Commissioned Corps personnel system and assistance in preparation and review of personnel actions; and

(5) Represents the agency in personnel matters with PHS, HHS, and the U.S. Office of Personnel Management.

Dated: March 27, 1990.

**Wilford J. Forbush,**

*Director, Office of Management.*

[FR Doc. 90-7868 Filed 4-4-90; 8:45 am]

BILLING CODE 4160-20-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of Administration

**[Docket No. N-90-3054]**

### Submission of Proposed Information Collection to OMB

**AGENCY:** Office of Administration, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

**SUPPLEMENTARY INFORMATION:** The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: March 29, 1990.

**John T. Murphy,**

*Director, Information Policy and Management Division.*

*Proposal:* Single Family Mortgage Insurance Premium Remittance Summary.

*Office:* Housing.

*Description of the Need for the Information and Its Proposed Use:* Form HUD-2748 will supply information that will ensure compliance on the part of the mortgagee and ensure that the Department receives all income due. Without this form, HUD could not ensure compliance by the mortgagee nor could HUD ensure that all income due the Government was being remitted.

*Form Number:* HUD-2748.

*Respondents:* Businesses or Other for-profit and small businesses or organizations.

*Frequency of Submission:* Recordkeeping.

*Reporting Burden:*

| | Number of respondents | × | Frequency of response | × | Hours per response | = | Burden hours |
|---|---|---|---|---|---|---|---|
| Recordkeeping | 8,000 | | 12 | | 5 | | 48,000 |

*Total Estimated Burden Hours:* 48,000.

*Status:* Extension.

*Contact:* Luther Thomas, HUD, (202) 755-1857, John Allison, OMB, (202) 395-6880.

Dated: March 28, 1990.

[FR Doc. 90-7760 Filed 4-4-90; 8:45 am]

BILLING CODE 4210-01-M

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### 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-747453

*Applicant:* Oklahoma City Zoo, Oklahoma City, OK.

The applicant requests a permit to import two male and four female Parma's wallabies (*Macropus parma*) from the Orana Park Wildlife Reserve, Christchurch, New Zealand, for captive breeding and display purposes. The wallabies were born in captivity at the Wellington Zoological Gardens, Wellington, New Zealand.

PRT-747191

*Applicant:* Quad Consultants, Bakersfield, CA.

The applicant requests a permit to live-trap and release Tipton kangaroo rats (*Dipodomys nitratoides nitratoides*) on Lawton Powers, Inc. Property, T30S R25E NE¼ section 6, Tupman USGS 7.5 min quadrangle, California, for biological survey purposes.

PRT-747225

*Applicant:* Richard Steward, Colorado Springs, CO.

The applicant requests a permit to import the personal sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*), culled from the captive-herd maintained by Mr. F.W.M. Bowker, Jr., Grahamstown, Republic of South Africa, for the purpose of enhancement of survival of the species.

PRT-747244

*Applicant:* Larry Serpa, The Nature Conservancy, Tiburbon, CA.

The applicant requests a permit to take (capture, measure and release) the California fresh water shrimp (*Syncaris pacifica*) in the Huichica, Lagunitas, Blucher, Walker, and other inhabited streams, plus the Napa River for the purpose of enhancement of propagation or survival of the species.

PRT-747228

*Applicant:* Sweetwater Environmental Biologists, Spring Valley, CA.

The applicant requests a permit to take (nest monitoring and removal of brown-headed cowbird (*Molothrus ater*) eggs found in nest) the least bell's vireo (*Vireo bellii pusillus*) in the Anza Borrego Desert State Park, Santa Ysabel Creek, Dulzura Creek in San Diego County, CA for the purpose of enhancement of propagation and survival of the species.

PRT-747226

*Applicant:* San Diego Zoological Park, San Diego, CA.

The applicant requests a permit to import two male and three female captive-born pudu (*Pudu pudu*) from La Dehesa, Santiago, Chile for the purpose of captive propagation.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) in room 430, 4401 N. Fairfax Dr., Arlington, VA 22201, or by writing to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, P.O. Box 3507, Arlington, VA 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.

Dated: March 30, 1990.

**Karen Wilson,**

*Acting Chief, Branch of Permits, U.S. Office of Management Authority.*

[FR Doc. 90-7797 Filed 4-4-90; 8:45 am]

BILLING CODE 4310-55-M

## Availability of the Draft Environmental Assessment and Land Protection Plan, Proposed ACE Basin National Wildlife Refuge; Charleston County, SC., et al

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

**ACTION:** Notice of availability of the Draft Environmental Assessment and Land Protection Plan for the proposed establishment of ACE Basin National Wildlife Refuge.

**SUMMARY:** This Notice advises the public that the U.S. Fish and Wildlife Service, Southeast Region, proposes to establish a national wildlife refuge within the Ashepoo, Combahee and Edisto (ACE) River Basin in Charleston, Colleton, and Beaufort Counties, South Carolina. The purpose of the proposal is to provide protection and management for wintering waterfowl and other wildlife on approximately 18,000 acres of wetland and associated habitats in the area. A Draft Environmental Assessment and Land Protection Plan has been developed by service biologists in coordination with the South Carolina Wildlife and Marine Resources Department, Ducks Unlimited, the Nature Conservancy, and the private sector representing landowners in the basin, to consider the biological, environmental, and socioeconomic effects of acquiring 18,000 acres of waterfowl habitat in the area and establishing a national wildlife refuge. Written comments or recommendations concerning the proposal are welcomed, and should be sent to the address below.

**DATES:** Land acquisition planning for the project is currently underway. The draft assessment and land protection plan will be available to the public on March 21, 1990. Written comments must be received no later than May 4, 1990, to be considered.

**ADDRESSES:** Comments and requests for copies of the assessment and further information should be addressed to: Mr. Charles Danner, Chief, Project Development Branch, Office of Refuges and Wildlife, U.S. Fish and Wildlife Service, 75 Spring Street SW., room 1240, Atlanta, GA 30303.

**SUPPLEMENTARY INFORMATION:** The proposed refuge consists of approximately 18,000 acres of prime wildlife lands within the ACE Basin. The project area contains exceptionally diverse wildlife habitat including high quality bottomland hardwoods and forested wetlands, forested uplands, saltmarsh, brackish marsh, unmanaged freshwater marsh, managed marshes, waterfowl impoundments, marsh islands, pristine estuarine rivers, and two coastal barrier islands unaltered by man.

An important wetland feature of the ACE Basin is the existence of marsh impoundments, which originated during the tidewater rice culture era nearly two centuries ago. The interspersion of these impoundments with tidal marshes and adjacent upland areas within the project area provides a remarkable complex of habitats for migratory and resident birds; mammals; reptiles; amphibians; and for commercial and recreational fish species common to the South Atlantic coast. Several federally listed endangered or threatened species also occur in the basin, including the wood stork, bald eagle, red-cockaded woodpecker, shortnose sturgeon and loggerhead sea turtle.

The ACE Basin has been identified as one of two "flagship" projects within the Atlantic Coast Joint Venture. Joint ventures are step-down plans where Federal, State, and private conservation agencies and groups work together, as guided by the North American Waterfowl Management Plan, to preserve and manage wetland habitats that are critical to the overall continental population of waterfowl.

The proposal was developed by the Service in coordination with representatives from the South Carolina Wildlife and Marine Resources Department, Ducks Unlimited, The Nature Conservancy, and the private sector representing landowners in the basin. In the assessment, four alternatives and their potential impact on the environment are evaluated. The Service believes the preferred alternative, Acquisition and Management by the Fish and Wildlife Service, in concert with existing State and privately-owned wetlands, will maximize high habitat values for migratory birds, endangered species, and other fish and wildlife species in the ACE Basin.

Dated: March 15, 1990.

James W. Pulliam, Jr.,

*Regional Director.*

[FR Doc. 90-7757 Filed 3-30-90; 3:34 pm]

BILLING CODE 4310-55-M

## Availability of a Draft Revised Recovery Plan for The Chesapeake Bay Region Bald Eagle for Review and Comment

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

**ACTION:** Notice of document availability.

**SUMMARY:** The U.S. Fish and Wildlife Service announces the availability for public review of a draft Revised Recovery Plan for The Chesapeake Bay Region Bald Eagle. This bald eagle population occurs on public and private lands in the States of Delaware and Maryland, Virginia east of the Blue Ridge Mountains, the eastern half of Pennsylvania, the "pan handle" of West Virginia, and the southern two-thirds of New Jersey. The Service solicits review and comment from the public on this draft Plan.

**DATES:** Comments on the draft Revised Recovery Plan must be received on or before June 4, 1990, to receive consideration by the Service.

**ADDRESSES:** Persons wishing to review the draft Revised Recovery Plan may purchase a copy from the Fish and Wildlife Reference Service, 5430 Grosvenor Lane, Suite 110, Bethesda, Maryland 20814 (301/492-6403 or 1-800/582-3421). Written comments and materials regarding the plan should be addressed to Mary Parkin, USFWS Region 5, One Gateway Center, Suite 700, Newton Corner, MA 02158 (617/965-5100 ext. 316 or FTS 829-9316). The plan is available for public inspection, by appointment, during normal business hours at the above address and at the Annapolis Field Office, USFWS, 1825-B Virginia Street, Annapolis, MD 21401 (301/269-6324).

**FOR FURTHER INFORMATION CONTACT:** Mary Parkin or Paul Nickerson at USFWS, Region 5, One Gateway Center, Suite 700, Newton Corner, MA 02158 (617/965-5100 ext. or FTS 829-9316).

**SUPPLEMENTARY INFORMATION:**

### Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare Recovery Plans for most of the listed species native to the United States. Recovery Plans describe actions considered necessary for conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of Recovery Plans for listed species unless such a Plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during Recovery Plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised Recovery Plan. The Service and other Federal agencies will also take these comments into account in the course of implementing Recovery Plans.

The document submitted for review is the draft revised Recovery Plan for the Chesapeake Bay Region (CBR) bald eagle (*Haliaeetus leucocephalus*) population. This bald eagle population was listed as endangered in 1967 as part of the Southern bald eagle designation. The southern and northern distinctions were dropped in 1978, when the bald eagle was listed as endangered in 43 states and threatened in five. The CBR bald eagle population was listed as endangered due to lowered productivity resulting from DDT and other contaminants, and exacerbated by human disturbance and habitat destruction. The initial Recovery Plan, approved in May, 1982, addressed foremost the issue of environmental contamination.

Since the late 1970s, the CBR population has responded positively to reduction in the use of certain environmental contaminants, notably organochlorine pesticides. This revised plan recognizes the improving status of the bald eagle, while continuing to address the concerns of habitat loss, disturbance, and other human and environmental threats. The bald eagle, including the CBR population, is currently being considered for reclassification from endangered to threatened status (Federal Register), February 7, 1990); this revised plan retains the objective for reclassification and includes a new objective for delisting. The primary recovery objective of the revised plan is to restore productivity rates that will ensure a secure, self-sustaining bald eagle population in the region. This will be accomplished through: protection of essential nesting and roosting habitat throughout the region; continued monitoring of the effects of environmental contamination on CBR bald eagles; and enforcement of laws and regulations affecting the CBR bald eagle. This revised plan is being submitted for agency review. After consideration of comments received during the review period, the plan will be submitted for final approval.

### Public Comments Solicited

The Service solicits written comments on the Revised Recovery Plan described. All comments received by the date specified above will be considered prior to approval of the Plan.

### Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: March 27, 1990.

A. Eugene Hester,

*Acting Regional Director.*

[FR Doc. 90-7829 Filed 4-4-90; 8:45 am]

BILLING CODE 4310-55-M

## Garrison Diversion Unit Federal Advisory Council Meeting

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

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Garrison Diversion Unit Federal Advisory Council established under the authority of the Garrison Diversion Unit Reformulation Act of 1986 (Pub. L. 99-294, May 12, 1986). The meetings are open to the public. Interested persons may make oral statements to the Council or may file written statements for consideration.

**DATES:** The Garrison Diversion Unit Federal Advisory Council will meet from 8 a.m. to 4 p.m. on Tuesday, April 24, 1990, and from 8 a.m. to 4 p.m. on Wednesday, April 25, 1990.

**PLACES:** On Tuesday, April 24, 1990, the meeting will be held at the North Dakota Game and Fish Department, 100 North Bismarck Expressway, Bismarck, North Dakota. On Wednesday, April 25, 1990, the Council members will tour some of the project features. The tour will begin at the Lonetree area near Harvey, North Dakota, and end at Bismarck, North Dakota.

**AGENDA:** This will be the initial meeting of the Garrison Diversion Unit Federal

Advisory Council since the Secretary of the Interior signed the Council Charter. On April 24, 1990, the Council will establish operating procedures and receive briefings on subjects such as functions of the Council, project history and description, the Garrison Diversion Unit Commission Report of 1984, the Garrison Diversion Unit Reformulation Act of 1986, Canadian concerns, impacts and mitigation overview, James River Comprehensive Report, wildlife plan procedures and agreements, status of the wildlife plan for private and public land impacts, and the status of Kraft Slough, the Lonetree area and the Wetlands Trust. The agenda for April 25, 1990, will consist of short briefings at each stop on the tour.

For further information individuals may contact Dr. Grady Towns, Fish and Wildlife Enhancement, at (303) 236–8186.

Dated: March 30, 1990.

**Galen L. Buterbaugh,**

*Regional Director, Region 6, U.S. Fish and Wildlife Service.*

[FR Doc. 90–7822 Filed 4–4–90; 8:45 am]

BILLING CODE 4310–55–M

## North American Wetlands Conservation Council Meeting

**AGENCY:** Department of the Interior.

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Alp. I), this notice announces a meeting of the North American Wetlands Conservation Council established under the authority of the North American Wetlands Conservation Act (Pub. L. 101–233, 103 Stat. 1968, December 13, 1989.) The meetings are open to the public. Interested persons may make oral statements to the Council or may file written statements for consideration. Summary minutes of meeting will be maintained in the office of the Coordinator for the North American Wetlands Conservation Council at 4401 North Fairfax Drive, Arlington, VA 22203, and will be available for public inspection during regular business hours (7:30–4:00) Monday through Friday within 30 days following the meeting. Personal copies may be purchased for the cost of duplication.

**DATES:** The North American Wetlands Conservation Council will meet from 9 a.m. to 1 p.m., Thursday, May 3, 1990.

**ADDRESSES:** The meeting will be held in Room 7000A, Department of Interior Building, 1849 C Street NW., Washington DC.

**SUPPLEMENTARY INFORMATION:** This will be the initial meeting of the North American Wetlands Conservation Council since the Secretary of the Interior signed the Council Charter. Council members will elect a chairperson, establish operating procedures, and approve a schedule for soliciting, reviewing, and recommending wetland conservation projects for funding as called for under the North American Wetlands Conservation Act.

For further information individuals may contact the Council Coordinator Dr. Robert Streeter at 358–1784.

Dated: April 2, 1990.

**Rollin D. Sparrowe,**

*Acting Assistant Director, Refuges and Wildlife, U.S. Fish and Wildlife Service.*

[FR Doc. 90–7817 Filed 4–4–90; 8:45 am]

BILLING CODE 4310–55–M

## Bureau of Land Management

**[AK–967–4230–15, AA–6980–A]**

## Publication; Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Section 14(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(b), will be issued to Huna Totem Corporation for approximately 4.13 acres. The lands involved are in the vicinity of Hoonah, Alaska.

**Copper River Meridian, Alaska**

T. 43 S., R. 61 W.,
Sec. 22.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the "Daily Sitka Sentinel". Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until May 7, 1990 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

**Terry R. Hassett,**

*Chief, Branch of KCS Adjudication.*

[FR Doc. 90–7833 Filed 4–4–90; 8:45 am]

BILLING CODE 4310–JA–M

**[CA–940–00–5410–10]**

## Conveyance of Mineral Interests in California; Correction

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Correction of notice of segregative effect-conveyance of reserved mineral interests CACA 26521.

**SUMMARY:** The Notice of Segregative Effect-Conveyance of the Reserved Mineral Interest (CACA 26521) published February 26, 1990, (55 FR 6691–92) is hereby corrected as follows:

On page 6692, the 301.64 acres in T. 1 N., R. 13 E., and T. 1 S., R. 13 E., should be described as being in Mount Diablo Meridian.

Dated: March 28, 1990.

**Nancy J. Alex,**

*Chief, Lands Section, Branch of Adjudication and Records.*

[FR Doc. 90–7827 Filed 4–4–90; 8:45 am]

BILLING CODE 4310–40–M

**[ID–060–00–4760–11]**

## Notice of Restriction Order No. ID060–7; ID

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Restrictive order.

**SUMMARY:** Notice is hereby given in accordance with title 43, Code of Federal Regulations, 8341.2 that all public lands in NW¼SW¼ sec. 34, T. 49 N., R. 2 E., B.M., located at Smelterville Flats, Shoshone County, Idaho northwest of the Shoshone County Airport are closed to all vehicle use. Maps depicting the restricted area are available for public inspection at the BLM, Coeur d'Alene District Office, 1808 North Third St., Coeur d'Alene, Idaho.

This restriction is necessary to reduce potentially hazardous fugitive dust blowing from this site and to prevent damage to revegetation efforts on this tract. This restriction does not apply to:

(1) Any Federal, State or local official or member of an organized rescue or fire fighting force while in the performance of an official duty.

(2) Any BLM employee, agent, contractor or cooperator while in the performance of an official duty.

(3) Any person who is expressly authorized by the Authorized Officer to operate a vehicle in the closed area for private land ingress or egress.

This restriction become effective immediately and will remain in effect until revoked or rescinded.

Signed this 30th day of March 1990 at Coeur d'Alene, Idaho.

**Bruce MacNeil,**

*Acting District Manager.*

[FR Doc. 90-7877 Filed 4-4-90; 8:45 am]

BILLING CODE 4310-GG-M

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**[AZ-921-00-4212-12; AZA-22699]**

## Arizona; Notice of Correction and Order Providing for Opening of Land

March 28, 1990.

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of correction and opening order.

**SUMMARY:** This action serves to correct an error in a **Federal Register** publication for a notice of exchange of land and it also opens 320 acres of reconveyed land in Yavapai County to mineral entry.

**FOR FURTHER INFORMATION CONTACT:** Angela Mogel, Bureau of Land Management, Arizona State Office, 3707 N. 7th Street, P.O. Box 16563, Phoenix, Arizona 85011, (602) 640-5534.

**SUPPLEMENTARY INFORMATION:** In **Federal Register** document 88-11818 on page 19055 in the issue of Thursday, May 26, 1988, the eighth line from the top of the first column should read "Sec. 32, W½."

At 9 a.m., on May 7, 1990, the land described below will be open to location and entry under the United States mining laws. Appropriation of land under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. section 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for determination in local courts.

**Gila and Salt River Meridian, Arizona**

T. 9½ N., R. 2 E.,
Sec. 32, W½.

The area described contains 320 acres in Yavapai County.

**Angela Mogel,**

*Acting Chief, Branch of Lands Operations.*

[FR Doc. 90-7830 Filed 4-4-90; 8:45 am]

BILLING CODE 4310-32-M

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**[CA-940-00-4212-11; CACA 2182]**

## California; Realty Action; Termination of Classification for Recreation and Public Purposes

**AGENCY:** Bureau of Land Management, Interior.

**SUMMARY:** This action terminates a notice which classified approximately 30 acres of public domain lands as suitable for recreation and public purposes. The site is not being used for the purpose it was withdrawn for. The lease was relinquished effective January 27, 1989.

**FOR FURTHER INFORMATION CONTACT:** Joan Mangold, Bureau of Land Management, California State Office, 2800 Cottage Way, Room E-2845, Federal Office Building, Sacramento, CA 95825, (916) 978-4820.

1. The initial classification decision dated March 12, 1975, which classified certain public domain lands as suitable for recreation and public purposes is hereby terminated in its entirety as it affects the following lands:

**Mount Diablo Meridian, California**

T. 6 S., R. 6. E.,
Sec. 14, lot 14 and portion of M.S. 5233.

The area contains approximately 30 acres in Stanislaus County.

2. At 10:00 a.m. on May 7, 1990 the lands described in paragraph 1 will be opened to operation of the public land laws subject to valid existing rights and the provisions of applicable law.

3. At 10:00 a.m. on May 7, 1990 the above-described lands shall be opened to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, any segregation of record, and the requirements of applicable law. Appropriation of any lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. section 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: March 28, 1990.

**Ed Hastey,**

*State Director.*

[FR Doc. 90-7834 Filed 4-4-90; 8:45 am]

BILLING CODE 4310-40-M

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# INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

## Agency for International Development

## Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development (A.I.D.) submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry no later than ten days after publication. Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, John H. Elgin, (703) 875-1608, IRM/PE, Room 1100B, SA-14, Washington, DC 20523-1407.

*Date Submitted:* March 23, 1990.
*Submitting Agency:* Agency for International Development.
*OMB Number: 0412-0004.*
*Form Number:* AID-11.
*Type of Submission:* Renewal.
*Title:* Application for Approval of Commodity Eligibility.
*Purpose:* A.I.D. provides loans and grants to many developing countries in the form of Commodity Import Programs (CIPS). These funds are made available to host countries to be allocated to the public and private sectors for purchasing various commodities from the U.S. or in some cases, from other developing countries. In accordance with section 604(f) of the Foreign Assistance Act of 1961, as amended, A.I.D. can finance only those commodities which are determined eligible and suitable in accordance with various statutory requirements and agency policies. Using the Application for Approval of Commodity Eligibility (Form AID-11), the supplier certifies to A.I.D. information about the commodities being supplied, as required in section 604(f), so that A.I.D. may determine eligibility. The annual reporting burden is twice per respondent and each response requires approximately fifteen minutes.

*Reviewer:* Marshall Mills, (202) 395–7340, Office of Management and Budget, room 3201, New Executive Office Building, Washington, DC 20503.

Dated: March 23, 1990.

**Wayne H. Van Vechten,**

*Planning and Evaluation Division.*

[FR Doc. 90–7806 Filed 4–4–90; 8:45 am]

BILLING CODE 6116–01–M

## INTERNATIONAL TRADE COMMISSION

**[Inv. No. 337–TA–252]**

### Certain Heavy Duty Mobile Scrap Shears; Commission Decision Not to Review Initial Determination; Termination of Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) finding no violation of section 337 in the above-captioned investigation. The Commission took no position with respect to that portion of the ID finding that complainant's Adamo-Dodge scrap shear anticipates and hence renders invalid under 35 U.S.C. 102(b) claims 20 and 21 of U.S. Letters Patent 4,519,135, (the '135 patent) assigned to complainant LaBounty Manufacturing Co., Inc. Under Commission interim rule 210.5(b), and based on the record before the Commission, respondents' request for sanctions against complainant in the form of an award of attorney fees and costs is denied by the Commission.

**ADDRESSES:** Copies of the nonconfidential version of the ID and all other non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–252–1000.

**FOR FURTHER INFORMATION CONTACT:** John England Jr., Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–252–1108. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810.

**SUPPLEMENTARY INFORMATION:** On February 12, 1990, the presiding administrative law judge (ALJ) issued an ID finding that there is no violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation and sale of certain heavy duty mobile scrap shears. Complainant LaBounty, respondents Dudley Shearing Machine Manufacturing Co., Ltd. and Dudley Shearing Inc., and the Commission investigative attorneys filed petitions for review of the ID. All parties filed responses to the petitions for review.

This action is taken under the authority of section 337 of the Tariff Act of 1930.

Issued: March 30, 1990.

**Kenneth R. Mason,**

*Secretary.*

[FR Doc. 90–7809 Filed 4–4–90; 8:45 am]

BILLING CODE 7020–02–M

## DEPARTMENT OF JUSTICE

### Lodging of Consent Decree; Binswanger Management, et al.

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on March 28, 1990, a proposed Consent Decree in *United States* v. *Binswanger Management, et al.*, Civil Action No. 87–1042, was lodged with the United States District Court for the Eastern District of Pennsylvania. The Consent Decree requires defendants to pay a civil penalty of $184,000 and to undertake measures to ensure future compliance with the Clean Air Act, 42 U.S.C. 7412, and the National Emissions Standards for Hazardous Air Pollutants ("NESHAP") for asbestos, 40 CFR part 61, subpart M.

The Department of Justice will receive for a period of thirty (30) days from the date of publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Binswanger Management, et al.* DOJ Ref. 90–5–2–1–1024.

The proposed Consent Decree may be examined at the Office of the United States Attorney, United States Court House, 3310 U.S. Courthouse, Independence Mall West, 601 Market St., Philadelphia, Pennsylvania 19106. Copies of the Consent Decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the U.S. Department of Justice, Room 1517, 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 at the above address. In requesting a copy, please enclose a check in the amount of $2.50 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

**Richard B. Stewart,**

*Assistant Attorney General, Land and Natural Resources Division.*

[FR Doc. 90–7875 Filed 4–4–90; 8:45 am]

BILLING CODE 4410–01–M

## Antitrust Division

### National Cooperative Research Notifications; 1990 Horizontal Well Gravel Pack Program; Amoco Production Co., et al.

Notice is hereby given that, on March 8, 1990, and March 23, 1990, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the participants in a project titled the "1990 Horizontal Well Gravel Pack Program", filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the project and (2) the nature and objective of the research program to be performed in accordance with said project. 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 participating in the 1990 Horizontal Well Gravel Pack Program, together with the nature and objectives of the research program, are given below.

The current parties to the 1990 Horizontal Well Gravel Pack Program agreement identified by the notices are:

Amoco Production Company, P.O. Box 3385, Tulsa, OK 74102

ARCO Oil and Gas Company, Division of Atlantic Richfield Company, 2300 West Plano Parkway, Plano, TX 75075

Baker Sand Control, P.O. Box 61486, Houston, TX 77208

BP Exploration, Inc., BP Petroleum Development, P.O. Box 4587, Houston, TX 77210

Conoco, Inc., P.O. Box 1267, Ponca City, OK 74603

Marathon Oil Company, P.O. Box 269, Littleton, CO 80160

Mobil Exploration and Producing Services, Inc., P.O. Box 650232, Dallas, TX 75265

Otis Engineering Corporation, P.O. Box 819052, Dallas, TX 75381–9052

Services Conseils, Dowell Schlumberger, 42, rue Saint Dominique, 75007 Paris, France

Statoil, Den norske Stats oljeselskap a.s., Forus, P.O. Box 300, 4001 Stavanger, Norway
Texaco, P.O. Box 425, Bellaire, TX 77401
Western Company of North America, 8701 New Trails Drive, The Woodlands, TX 77381

The objectives of this project are to collect, compile and distribute to the participants data on the procedures and methods for gravel packing horizontal oil wells by: (i) Using a high pressure wellbore model to generate data on the parameters of gravel packing, including gravel distribution and fluid flow rate, density, and pressure; and (ii) collecting and distributing to the participants video tapes of the experiments conducted during the program and written information summarizing the experiment conditions and observations. The work on this project will be conducted by Marathon Oil Company. Membership in this program remains open, but is limited to twenty-five (25) participants. The parties intend to file additional written notification disclosing all changes in membership. The project commenced on January 31, 1990 and will last one year. Information regarding participation in this project may be obtained from Mr. John Davis, Director of Exploration and Production Technology, Marathon Oil Company, P.O. Box 269, Littleton, Colorado 80160.

**Joseph H. Widmar,**

*Director Of Operations, Antitrust Division.*

[FR Doc. 90-7873 Filed 4-4-90; 8:45 am]

BILLING CODE 4410-01-M

## National Cooperative Research Notifications; The SQL Access Group; Ashton-Tate Corp., et al.

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"), The SQL Access Group ("the Group") on March 1, 1990 has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the Group and (2) the nature and objectives of the Group. The notification was 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 Group, and its general areas of planned activities, are given below.

The current parties to the Group are:

Ashton-Tate Corporation, Walnut Creek Advanced Development Center, 2033 N. Main Street, Suite 980, Walnut Creek, CA 94596-3722
British Telecom, St. Vincent House, 1 Cutler Street, Ipswich 1P1 1UX, Great Britian
Bull HN Information Systems Inc., 13430 N. Black Canyon, Phoenix, AZ 85029
DB Access, 2900 Gordon Avenue, Suite 101, Santa Clara, CA 95051
Digital Equipment Corporation, 110 Spitbrook Road, Nashua, NH 03062
Fujitsu America, Inc., 3055 Orchard Drive, San Jose, CA 95134-2022
Hewlett-Packard Company, 19447 Pruneridge Ave., Cupertino, CA 95014
Infocentre Corporation, 3300 Cote Vertu, Suite 303, Saint-Laurent, Quebec, Canada H4R 2B8
Informix Software, Inc., 4100 Bohannon Drive, Menlo Park; CA 94025
Ingres Corp., 1080 Marina Village Parkway, Alameda, CA 94501
Metaphor, 1965 Charleston Rd., Mountain View, CA 94043
NCR Corporation, 16550 W. Bernardo Dr., San Diego, CA 92127
Oracle Corporation, 100 Marine World Parkway, Suite 400, Redwood City, CA 94065
Retix, 2644 30th Street, Santa Monica, CA 90405-3009
Sun Microsystems, Inc., 2550 Garcia Ave., Mountain View, CA 94043
Tandem Computers, Inc., 19191 Vallco Parkway, Cupertino, CA 95014
Teradata Corporation, 12945 Jefferson Blvd., P.O. Box 92117, Los Angeles, CA 90066
Unify Corporation, 3870 Rosin Court, Suite 100, Sacramento, CA 95834

The objectives of the Group are: *First,* to develop a standard set of computer software specifications, based on existing SQL standards, that may be freely incorporated in database and applications programs in order to permit applications to access information stored in databases, regardless of the computer system on which the application or the database is running. Such development will consist of two categories, to be pursued simultaneously through the Working Groups established pursuant to the Group's Charter: (a) development of an Applications Programming Interface ("API"), Consisting of extensions to SQL to clarify or specify details that will allow an application to converse with heterogeneous distributed SQL systems; and (b) development of Formats and Protocols ("FAP"), to specify message formats and communications protocols that will allow heterogeneous SQL systems to interoperate, exchanging commands and data.

*Second,* to develop and implement prototypes of the API and FAP on several platforms in order to validate the design.

*Third,* to make the definition and prototypes developed above available to others for general industry use, and to submit them through appropriate channels for consideration by other standards-setting organizations, including the International Standards Organization ("ISO") and the American National Standards Institute ("ANSI"). The intent of the Group is to base its work on existing standards efforts (ISO/SQL, ISO/RDA) and to enhance those technologies by specifying the additional details necessary to assure database interoperability.

**Joseph H. Widmar,**

*Director of Operations, Antitrust Division.*

[FR Doc. 90-7874 Filed 4-4-90; 8:45 am]

BILLING CODE 4410-01-M

## National Cooperative Research Notifications; Semiconductor Research Corp.

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.* ("Act"), the Semiconductor Research Corporation ("SRC"), on February 20, 1990, filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notification was filed for the purpose of maintaining the protections of the Act limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Unit Instruments, Inc. has been added as a member of SRC, and the name of a member, Etech Development Corporation, has been changed to Dawn Technologies, Inc. No other changes have been made in either the membership or planned activities of SRC.

On January 7, 1985, SRC 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 January 30, 1985, 50 FR 4281. SRC's most recent notification disclosing changes in its membership was filed on October 25, 1989, notice of which (including a then current and complete membership list) was published by the Department on November 29, 1989, 54 FR 49123-24.

**Joseph H. Widmar,**

*Director of Operations, Antitrust Division.*

[FR Doc. 90-7876 Filed 4-4-90; 8:45 am]

BILLING CODE 4410-01-M

## NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

### Issues Related to Federal Information Policy; Meeting

**AGENCY:** U.S. National Commission on Libraries and Information Science (NCLIS).

**ACTION:** Notice of public meeting.

**SUMMARY:** On July 13, 1989, the U.S. National Commission on Libraries and Information Science held a public hearing concerning the 1988 report from the U.S. Office of Technology Assessment entitled "Informing the Nation". As a followup to that hearing, NCLIS established an Information Policy Committee which is conducting a series of public meetings/forums to discuss issues related to information policies. This notice announces the second of those public meetings/forums designed to elicit the views, comments, concerns, ideas and information from interested persons and organizational representatives, and for the interchange of such, concerning information policies. The Commission's meetings are authorized under Public Law 91–345.

**DATE/LOCATION:** The public meeting will be held April 30, 1990, in the auditorium of the U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC, 9 a.m. to 12 noon.

**AGENDA:** This meeting will consider Principles of Information Policy drafted under the auspices of the Information Policy Committee, and which the Committee is considering recommending to the Commission for adoption as an official policy statement. The text of the principles is set forth below.

**PARTICIPATION:** This meeting is open by invitation to anyone interested in information policy issues. Requests for invitations should be received by NCLIS by April 20, 1990. Because of space constraints, participation will be limited to 240.

**ADDRESSES:** Written requests for invitations must be submitted to: U.S. National Commission on Libraries and Information Science, Attn: Jane Williams, 1111 18th Street NW., Suite 310, Washington, DC 20036.

*Written Comments*

Written comments on the Principles will be accepted before, during, or after the public meeting, provided that all such comments must be received at the above address not later than the close of business on Friday, May 18, 1990.

Access to the meeting for handicapped individuals is available. Please call Jane Williams, (202) 254–3100, no later than one week in advance of the meeting.

For further information contact: Jane Williams, Research Associate, U.S. National Commission on Libraries and Information Science, 1111 18th Street NW., Suite 310, Washington, DC 20036, (202) 254–3100.

Dated: March 30, 1990.

**Susan K. Martin,**

*Executive Director.*

**Principles of Public Information Policy**

*Preamble*

These *Principles of Public Information Policy* are offered by the National Commission on Libraries and Information Science as a theoretical basis for the many operational decisions which are made throughout the Federal government when dealing with issues of public information. It is hoped that all branches of the Federal government as well as the private sector will utilize these principles in the development of information policy and in the creation, use, dissemination and retention of public information. "Public information" is defined as information created, compiled and maintained by the Federal government. In its truest sense, "public information" is information owned by the people and held in trust by their government. It is in this spirit of public ownership and public trust that these *Principles of Public Information Policy* are offered and, we hope, will be used.

1. Citizens have the right of ready and timely access to public information. Open and uninhibited access to and exchange of public information should be guaranteed, except where information is protected by law, such as national security information and personnel records. Public information, regardless of the format in which it is presented, should be usable as well as accessible. Citizens should be able to extract the data they need from public information products without encountering arbitrary or unnecessary obstacles.

2. The integrity and preservation of public information should be maintained, regardless of format. With increasing numbers of files in computer readable form, the question of storage, maintenance, integrity of and access to this data becomes ever more serious. There is a critical need to preserve archival copies of public electronic data. Existing guidelines should be reviewed and revised if necessary to obligate the government to retain an accurate record of its business, taking into account the expanding volume of electronic data files which can be more readily changed than print documents.

3. Dissemination, reproduction and redistribution of public information should be guaranteed. When dissemination is restricted, as with copyright or licensing agreements, the burden of proof for such restriction should be on the publishing agency. Such restrictions should not impede the citizen's right to access as represented in these principles.

4. It is essential to safeguard the privacy of persons who use information, as well as persons about whom information exists in government records, to the full extent provided by law.

5. There should be a wide diversity of sources of access, private as well as public, to public information. Even within government, a single source for information is not necessarily desirable. It is recognized that over time and through changes in technology sources of access may change.

6. Costs should not be an obstruction to citizen access to information. The costs incurred by creating, collecting and processing information for the government's own purposes should not be passed onto citizens who wish to utilize public information, unless specifically provided for by law. Congress should assure sufficient funding for information dissemination so that citizens need pay no more than marginal costs for any single piece of public information.

7. Information about government should be easily available, descriptive, and in a single electronic or paper-bases source. This single source of public information should be in addition to inventories of information or data files kept within individual agencies.

8. The Depository Library Program, as an important means of providing access to information for all citizens, should be enhanced and expanded to support its basic mission, in accordance with these principles, and to include electronic data bases with appropriate basis software and documentation.

[FR Doc. 90–7752 Filed 4–4–90; 8:45 am]

BILLING CODE 7527-01-M

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### Humanities Panel; Meetings

**AGENCY:** National Endowment for the Humanities.

**ACTION:** Notice of meetings.

**SUMMARY:** Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is

hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

**FOR FURTHER INFORMATION CONTACT:** Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone 202/786–0322.

**SUPPLEMENTARY INFORMATION:** The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or (3) information the disclosure of which would significantly frustrate implementation of proposed agency action, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

1. *Date:* April 19–20, 1990
   *Time:* 9:00 a.m. to 5:30 p.m.
   *Room:* 430
   *Program:* This meeting will review applications submitted to Humanities Projects in Libraries and Archives program for the March 1990 deadline, for projects beginning after May 1991.
2. *Date:* April 26–27, 1990
   *Time:* 9:00 a.m. to 5:30 p.m.
   *Room:* 430
   *Program:* This meeting will review applications submitted to Public Humanities Projects program for March 1990 deadline, for projects beginning after May 1991.
3. *Date:* April 24, 1990
   *Time:* 8:30 a.m. to 5:30 p.m.
   *Room:* 315
   *Program:* This meeting will review applications to direct Summer Seminars for College Teachers in English and American Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1991.
4. *Date:* April 25, 1990
   *Time:* 8:30 a.m. to 5:30 p.m.
   *Room:* 315
   *Program:* This meeting will review applications to direct Summer Seminars for College Teachers in History, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1991.
5. *Date:* April 26, 1990
   *Time:* 8:30 a.m. to 5:30 p.m.
   *Room:* 315
   *Program:* This meeting will review applications to direct Summer Seminars for College Teachers in Art, Drama, Film, and Music, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1991.
6. *Date:* April 27, 1990
   *Time:* 8:30 a.m. to 5:30 p.m.
   *Room:* 315
   *Program:* This meeting will review applications to direct Summer Seminars for College Teachers in Foreign and Comparative Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1991.
7. *Date:* April 30, 1990
   *Time:* 8:30 a.m. to 5:30 p.m.
   *Room:* 315
   *Program:* This meeting will review applications to direct Summer Seminars for College Teachers in Politics and Society, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1991.
8. *Date:* April 30–May 1, 1990
   *Time:* 8:30 a.m. to 5:30 p.m.
   *Room:* 430
   *Program:* This meeting will review applications submitted to Public Humanities Projects program for the March deadline, for projects beginning after March 1990.
9. *Date:* May 1, 1990
   *Time:* 8:30 a.m. to 5:30 p.m.
   *Room:* 315
   *Program:* This meeting will review applications to direct Summer Seminars for College Teachers in Philosophy and Religion, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1991.
10. *Date:* April 19–20, 1990
    *Time:* 8:30 to 5:30 p.m.
    *Room:* 415
    *Program:* This meeting will review applications submitted for Humanities Projects in Media, for projects beginning after October 1990.
11. *Date:* April 25–26, 1990
    *Time:* 8:30 a.m. to 5:30 p.m.
    *Room:* 415
    *Program:* This meeting will review applications submitted for Humanities Projects in Media, for projects beginning after October 1, 1990.
12. *Date:* April 11–12, 1990
    *Time:* 8:30 a.m. to 5:30 p.m.
    *Room:* 415
    *Program:* This meeting will review applications submitted for Humanities Projects in Media, for projects beginning after October 1, 1990.

**Catherine Wolhowe,**

*Advisory Committee, Management Officer (Alternate).*

[FR Doc. 90–7871 Filed 4–4–90; 8:45 am]

BILLING CODE 7536–01–M

## International Exhibition Federal Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Federal Advisory Committee on International Exhibitions will be held on April 24, 1990, from 9:30 a.m. to 5 p.m. at the Studio Museum, 144 West 125th Street, New York, NY 10027.

A portion of this meeting will be open to the public on April 24 from 9:30 a.m. to 10:30 a.m. The topic for discussion will be policy issues.

The remaining session on April 24, 1990, from 10:30 a.m. to 5 p.m. is for the purpose of reviewing preliminary proposals for the Sao Paulo Bienal in 1991 under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants.

In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, this session will be closed to the public pursuant to subsections (c)(4), (6) and 9(B) of title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: March 30, 1990.

**Yvonne M. Sabine,**

*Director, Council and Panel Operations, National Endowment for the Arts.*

[FR Doc. 90–7885 Filed 4–4–90; 8:45 am]

BILLING CODE 7537–01–M

## NATIONAL SCIENCE FOUNDATION

### Applications of Advanced Technologies, Science, and Engineering Education Advisory Panel; Meeting

The National Science Foundation announces the following meeting:

*Name:* Advisory Panel for the Applications of Advanced Technologies, Science and Engineering Education.

*Date and Time:* Friday, April 27, 1990, from 6 to 9 p.m., Saturday, April 28, 1990, from 8:30 a.m. to 4:30 p.m.

*Place:* National Science Foundation, Room 1242, 1800 G Street NW., Washington, DC.

*Type of Meeting:* Closed.

*Contact Person:* Dr. Andrew R. Molnar, Applications for Advanced Technologies, Room 635A, Washington, DC 20550, Phone: (202) 357–7064.

*Minutes:* May be obtained from the Contact Person at the above address.

*Purpose of Meeting:* To provide advice and recommendations concerning support for research.

*Agenda:* To review and evaluate research proposals as part of the selection process for awards.

*Reason for Closing:* The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are within exceptions (4) and (6) of 5 U.S.C. 552 b(c), Government in the Sunshine Act.

Dated: April 2, 1990.

**M. Rebecca Winkler,**

*Committee Management Officer.*

[FR Doc. 90–7892 Filed 4–4–90; 8:45 am]

BILLING CODE 7555–01–M

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### Advisory Panel for Biochemistry; Meeting

The National Science Foundation announces the following meeting:

*Name:* Advisory Panel for Biochemistry.

*Date:* Wednesday, Thursday and Friday, April 25–27, 1990, from 9 am to 5 pm.

*Place:* The Inn by the Sea, La Jolla, CA.

*Type of Meeting:* Closed.

*Contact Person:* Dr. Marcia Steinberg, Program Director, Dr. Walter Hill, Program Director, Biochemistry Program, Rm 325, Telephone (202) 357–7945.

*Purpose of Advisory Panel:* To provide advice and recommendations concerning support for Biochemistry research proposals.

*Agenda:* To review and evaluate research proposals as part of the selection process for awards.

*Reason for closing:* The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Dated: April 2, 1990.

**M. Rebecca Winkler,**

*Committee Management Officer.*

[FR Doc. 90–7893 Filed 4–4–90; 8:45 am]

BILLING CODE 7555–01–M

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### Cellular Neuroscience Advisory Panel; Meeting

The National Science Foundation announces the following meeting:

*Name:* Advisory Panel for Cellular Neuroscience.

*Date and Time:* April 23–25, 1990, 8:30 a.m.–5 p.m.

*Place:* National Science Foundation, 1800 G Street, NW., room 543, Washington, DC 20550.

*Type of Meeting:* Closed.

*Contact Person:* Dr. Maurizio Mirolli, Program Director, Cellular Neuroscience, room 320, National Science Foundation, Washington, DC 20550, Telephone (202) 357–7471.

*Minutes:* May be obtained from contact person listed above.

*Purpose of Meeting:* To provide advice and recommendations concerning support for research in cellular neuroscience.

*Agenda:* To review and evaluate research proposals as part of the selection process for awards.

*Reason for Closing:* The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of the Government in the Sunshine Act.

Dated: April 2, 1990.

**M. Rebecca Winkler,**

*Committee Management Officer.*

[FR Doc. 90–7894 Filed 4–4–90; 8:45 am]

BILLING CODE 7555–01–M

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### Decision, Risk, and Management Science Advisory Panel; Meeting

The National Science Foundation announces the following meeting:

*Name:* Advisory Panel for Decision, Risk, and Management Science.

*Date/Time:* April 23–24, 1990; 8:30 a.m. to 5 p.m. each day.

*Place:* One Washington Circle Hotel, One Washington Circle, NW., Washington, DC 20037.

*Type of Meeting:* Closed.

*Contact Persons:* Dr. James Shanteau, Program Director, (202) 357–7417, or Dr. L. Robin Keller, Associate Program Director, (202) 357–7569, Decision, Risk, and Management Science, Division of Social and Economic Science, National Science Foundation, Washington, DC 20550. Room 336.

*Purpose of Meeting:* To provide advice and recommendations concerning support for research in decision, risk, and management science.

*Agenda:* To review and evaluate research proposals as part of the selection process for awards.

*Reason for Closing:* The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 522b(c), Government in the Sunshine Act.

**M. Rebecca Winkler,**

*Committee Management Officer.*

[FR Doc. 90–7895 Filed 4–4–90; 8:45 am]

BILLING CODE 7555–01–M

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### Developmental Biology Advisory Panel; Meeting

*Name:* Advisory Panel for Developmental Biology.

*Date and Time:* April 25, 26, 27, 1990—8:30 a.m. to 5 p.m.

*Place:* National Science Foundation, 1800 G Street NW., Washington, DC 20550. Conference Room 1242.

*Type of Meeting:* Closed.

*Contact Person:* Dr. Judith Plesset, Acting Program Director, Developmental Biology Program, room 321–M, National Science Foundation, Washington, DC 20550, Telephone 202/357–7989.

*Minutes:* May be obtained from contact person listed above.

*Purpose of Meeting:* To provide advice and recommendations concerning support for research in developmental biology.

*Agenda:* Closed—To review and evaluate research proposals as part of the selection process for awards.

*Reason for Closing:* The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data; such as salaries and

personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of the Government Sunshine Act.

**M. Rebecca Winkler,**

*Committee Management Officer.*

[FR Doc. 90-7896 Filed 4-4-90; 8:45 am]

BILLING CODE 7555-01-M

### Genetics Advisory Panel; Meeting

The National Science Foundation announces the following meeting:

*Name:* Advisory Panel for Genetics.

*Date and Time:* Monday, Tuesday, and Wednesday, April 23, 24, 25, 1990, 9 a.m. to 6 p.m.

*Place:* 2000 Sixth Avenue Inn, Seattle, Washington 98121.

*Type of Meeting:* Closed.

*Contact Person:* Dr. Philip Harriman, Program Director, Genetics, room 325, Telephone: (202) 357-9687.

*Minutes:* May be obtained from the Contact Person at the above address.

*Purpose of Advisory Panel:* To provide advice and recommendations concerning support for research.

*Agenda:* To review and evaluate research proposals as part of the selection process for awards.

*Reason for Closing:* The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of proposals U.S.C. 552b(c), Government in the Sunshine Act.

**M. Rebecca Winkler,**

*Committee Management Officer.*

[FR Doc. 90-7897 Filed 4-4-90; 8:45 am]

BILLING CODE 7555-01-M

### Linguistics Advisory Panel; Meeting

The National Science Foundation announces the following meeting:

*Name:* Advisory Panel for Linguistics.

*Date and Time:* April 25-27, 1990, 9 a.m. to 5 p.m.

*Place:* National Science Foundation, 1800 G Street NW., room 536, Washington, DC 20550.

*Type of Meeting:*

Part open—Closed 4/25—9 a.m. to 5 p.m.

Closed 4/26—9 a.m. to 5 p.m.

Open 4/27—9 a.m. to 12 noon

Closed 4/27—12 noon to 5 p.m.

*Contact Person:* Dr. Paul G. Chapin, Program Director for Linguistics, room 320, National Science Foundation, Washington, DC 20550; (202) 357-7696.

*Summary Minutes:* May be obtained from the contact person at the above address.

*Purpose of Meeting:* To provide advice and recommendations concerning support for research in linguistics.

*Agenda:*

Open—General discussion of the current status and future plans of the Linguistics Program.

Closed—To review and evaluate research proposals as part of the selection process for awards.

*Reason for Closing:* The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of the Government in the Sunshine Act.

**M. Rebecca Winkler,**

*Committee Management Officer.*

[FR Doc. 90-7898 Filed 4-4-90; 8:45 am]

BILLING CODE 7555-01-M

## NATIONAL SCIENCES FOUNDATION

### Division of Ocean Sciences; Meeting

The National Science Foundation announces the following meeting:

*Name:* Advisory Panel for Ocean Sciences Research.

*Date and Time:* April 24-26, 1990; 8:30 a.m.-5 p.m.

*Place:* American Association for the Advancement of Science; 1333 H Street NW., Washington, DC 20005.

Rooms:

First Floor Conference Room A,
First Floor Conference Room B,
Eighth Floor Conference Room,
Eleventh Floor Conference Room.

*Type of Meeting:* Closed.

*Contact Person:* Dr. Michael R. Reeve, Head, Ocean Sciences Research Section, room 609, National Science Foundation, Washington, DC 20005, Telephone: 202-357-9639.

*Minutes:* May be obtained from the contact person.

*Purpose of Meeting:* To provide advice and recommendations concerning support for research in oceanography.

*Agenda:* Closed—To review and evaluate research proposals as part of the selection process for awards.

*Reason for Closing:* The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of U.S.C. 552b(c), Government in the Sunshine Act.

**M. Rebecca Winkler,**

*Committee Management Officer.*

[FR Doc. 90-7899 Filed 4-4-90; 8:45 am]

BILLING CODE 7555-01-M

### Sensory Systems Advisory Panel; Meeting

The National Science Foundation announces the following:

*Name:* Advisory Panel for Sensory Systems.

*Date and Time:* April 25-27, 1990, 9 a.m.-5 p.m. each day.

*Place:* National Science Foundation, 1800 G Street NW., Washington, DC. April 25, 1990 in room 523 and April 26-27, 1990 in room 1243.

*Type of Meeting:*

Part open—Closed 4/25/90—9 a.m. to 5 p.m.

Open 4/26/90—9 a.m. to 11 a.m.

Closed 4/26/90—11 a.m. to 5 p.m.

Closed 4/27/90—9 a.m. to 5 p.m.

*Contact Person:* Dr. Christopher Platt, Program Director, Sensory Systems, room 320, National Science Foundation, Washington, DC 20050, Telephone (202) 357-7428.

*Minutes:* May be obtained from contact person listed above.

*Purpose of Meeting:* To provide advice and recommendations concerning support for research in Sensory Systems.

*Agenda:*

Open—General discussion of research trends and opportunities in Sensory Systems.

Closed—To review and evaluate research proposals as part of the selection process for awards.

*Reason for Closing:* The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of the Government in the Sunshine Act.

**M. Rebecca Winkler,**

*Committee Management Officer.*

[FR Doc. 90-7900 Filed 4-4-90; 8:45 am]

BILLING CODE 7555-01-M

### Sociology Advisory Panel; Meeting

The National Science Foundation announces the following meeting:

*Name:* Advisory Panel for Sociology.

*Date/Time:*

April 23, 1990, 8:30 to 5 p.m.

April 24, 1990, 8:30 to 5 p.m.

*Place:* Room 1242, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

*Type of Meeting:* Closed.

*Contact Persons:* Dr. Murray Webster, Program Director for Sociology Dr. Gwendolyn Lewis, Associate Program Director for Sociology; Telephone (202) 357–7802.

*Purpose of Meeting:* To provide advice and recommendations concerning research in Sociology.

*Agenda:* To review and evaluate research proposals and projects as part of the selection process for awards.

*Reason for Closing:* The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b, Government in the Sunshine Act.

M. Rebecca Winkler,

*Committee Management Officer.*

[FR Doc. 90–7901 Filed 4–4–90; 8:45 am]

BILLING CODE 7555–01–M

### Systematic Anthropological Collections Advisory Panel; Meeting

The National Science Foundation announces the following meeting:

*Name:* Advisory Panel for Systematic Anthropological Collections.

*Date and Time:* April 27, 1990, 9 a.m.–5 p.m.

*Place:* National Science Foundation, 1800 G Street NW., room 540–B, Washington, DC 20550.

*Type of Meeting:* Closed.

*Contact Person:* Dr. John E. Yellen, Program Director, Anthropology Program, room 320, National Science Foundation, Washington, DC 20550 Telephone (202) 357–7804.

*Minutes:* May be obtained from contact person listed above.

*Purpose of Meeting:* To provide advice and recommendations concerning support for research in Systematic Anthropological Collections.

*Agenda:* To review and evaluate research proposals as part of the selection process for awards.

*Reason for Closing:* The proposal being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of the Government in the Sunshine Act.

M. Rebecca Winkler,

*Committee Management Officer.*

[FR Doc. 90–7902 Filed 4–4–90; 8:45 am]

BILLING CODE 7555–01–M

### Systematic Biology Advisory Panel; Meeting

The National Science Foundation announces the following meeting:

*Name:* Advisory Panel for Systematic Biology.

*Date and Time:* April 23–25, 1990; 8:30 a.m. to 5 p.m. each day.

*Place:* Room 1243, Natinal Science Foundation, 1800 G Street NW., Washington, DC 20550.

*Type of Meeting:* Closed.

*Contact Person:* Dr. William S. Moore, Program Director, Systematic Biology (202) 357–9588, room 215, National Science Foundation, Washington, DC 20550.

*Minutes:* May be obtained from the contact person at the above address.

*Purpose of Meeting:* To provide advice and recommendations concerning support for research in systematic biology.

*Agenda:* Review and evaluation of research proposals and projects as part of the selection process of awards.

*Reason for Closing:* The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

*Committee Management Officer.*

[FR Doc. 90–7903 Filed 4–4–90; 8:45 am]

BILLING CODE 7555–01–M

### Visitors, Computers and Computation Research Committee; Meeting

The National Science Foundation announces the following meeting:

*Name:* Committee of Visitors, Computer and Computation Research.

*Place:* Room 540, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

*Date:* Thursday, April 26, 1990.

*Time:* 8:30 a.m.–5 p.m.

*Type of Meeting:* Part Open (8:30 a.m.–9:30 a.m.) Part Closed (9:30 a.m.–5 p.m.).

*Contact Person:* Dr. Richard A. DeMillo, Division Director, Division of Computer and Computation Research, room 304, National Science Foundation, Washington DC, 20550; Telephone: (202) 357–9747.

*Committee Reports:* May be obtained from the contact person, Dr. Richard DeMillo at the above stated address.

*Purpose of Committee:* To carry out Committee of Visitors review of the following programs: Computer and Computation Theory, Numeric and Symbolic Computation, Computer Systems Architecture, Software System and Software Engineering.

*Agenda:* Thursday Morning, April 26, 1990.

8:30 a.m.—Welcome and introductions.

8:45 a.m.—Division overview.

9 a.m.—Staff briefing on programs in separate rooms.

- Computer and Computation Research.
- Numeric and Symbolic Computation.
- Computer Systems Architecture.
- Software System.
- Software Engineering.

9:30 a.m.—Review of each program (closed).

12 noon—Lunch.

1 p.m.—Continuation of Review (closed).

5 p.m.—Adjourn.

*Reason for Closing:* The Committee of Visitors review of proposal actions will include privileged intellectual property and personal information that could harm individuals if it were disclosed and predecisional intra-agency records not available by law. If discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act would improperly be disclosed.

M. Rebecca Winkler,

*Committee Management Officer.*

[FR Doc. 90–7904 Filed 4–4–90; 8:45 am]

BILLING CODE 7555–01–M

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 72-8, 50-317/318; ASLBP No. 90-606-01-RS]**

### Baltimore Gas and Electric Co.; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

**Baltimore Gas and Electric Company**

*Calvert Cliffs Independent Spent Fuel Storage Installation (ISFSI)*

This Board is being established pursuant to a notice published by the Commission on February 9, 1990, in the **Federal Register** (55 FR 4742) entitled, "Consideration Issuance of a Materials License for the Storage of Spent Fuel and Notice of Opportunity for a Hearing." The proposed license would authorize the applicant to store spent fuel in a dry storage concrete module system at the applicant's Calvert Cliffs Nuclear Power Plant site for Units 1 and 2 (Operating Licenses DPR-53 and 69). Pursuant to the provisions of 10 CFR part 72, the term of the license for the ISFSI would be twenty (20) years.

The Board is comprised of the following administrative judges:

Charles Bechhoefer, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

Richard F. Cole, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

Jerry R. Kline, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

All correspondence, documents and other materials shall be filed with the Judges in accordance with 10 CFR 2.701.

Issued at Bethesda, Maryland, this 29th day of March 1990.

**B. Paul Cotter, Jr.,**

*Chief Administrative Judge, Atomic Safety and Licensing Board Panel.*

[FR Doc. 90-7843 Filed 4-4-90; 8:45 am]

BILLING CODE 7590-01-M

**[Docket Nos. 50-54 and 70-687; ASLBP No. 90-604-03-EA]**

### Cintichem, Incorporated; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding:

**Cintichem, Incorporated License No. R-81 Special Nuclear Materials License No. SNM-639 (Order Modifying Licenses) EA 90-033**

This Board is being established pursuant to a request for a hearing regarding an Order issued by Deputy Executive Director for Nuclear Materials Safety, Safeguards and Operations Support, dated February 13, 1990, entitled "Order Modifying License (Effective Immediately)." (55 Fed. Reg. 7072, February 28, 1990)

An Order designating the time and place of any hearing will be issued at a later date.

All correspondence, documents and other materials shall be filed in accordance with 10 CFR 2.701. The Board is comprised of the following Administrative Judges:

John H. Frye, III, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dr. James H. Carpenter, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dr. Richard F. Cole, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Issued at Bethesda, Maryland, this 29th day of March 1990.

**B. Paul Cotter, Jr.,**

*Chief Administrative Judge, Atomic Safety and Licensing Board Panel.*

[FR Doc. 90-7842 Filed 4-4-90; 8:45 am]

BILLING CODE 7590-01-M

**[Docket No. 50-440-OLA; ASLBP No. 90-605-02-OLA]**

### The Cleveland Electric Illuminating Co., et al.; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

**The Cleveland Electric Illuminating Co., et al.; Perry Nuclear Power Plant, Unit 1**

This Board is being established pursuant to a notice published by the Commission on February 7, 1990, in the **Federal Register** (55 FR 4259, 4282) entitled, "Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing." The proposed amendment would, *inter alia*, revise Technical Specifications 3.2.1, 3.2.2, 3.2.3, of Appendix A to the license to replace the values of cycle-specific parameter limits with a reference to the Core Operating Limits Report, which contains the value of these limits and which is contained in a section of the Plant Data Book.

The Board is comprised of the following administrative judges:

John H. Frye, III, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Jerry R. Kline, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Frederick J. Shon, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

All correspondence, documents and other materials shall be filed with the Judges in accordance with 10 CFR 2.701.

Issued at Bethesda, Maryland, this 29th day of March 1990.

**B. Paul Cotter, Jr.,**

*Chief Administrative Judge, Atomic Safety and Licensing Board Panel.*

[FR Doc. 90-7841 Filed 4-4-90; 8:45 am]

BILLING CODE 7590-01-M

**[Docket No. 50-440]**

### The Cleveland Electric Illuminating Co., et al.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-

58, issued to the Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company and Toledo Edison Company (the licensees), for operation of the Perry Nuclear Power Plant, Unit No. 1, located in Lake County, Ohio.

The amendment would revise Technical Specifications 3.6.1.1.2 and 4.6.1.1.2 and the related bases to allow up to six ¾-inch vent and drain line pathways to be opened for the purpose of performing containment isolation valve leak rate testing provided that the plant has been subcritical for at least seven (7) days. Previously, during the first refueling outage, up to two (2) ¾-inch vent and drain line pathways were allowed to be opened for purposes of performing containment isolation valve leak rate testing.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By May 7, 1990, the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and a petition for leave to intervene. Requests for a hearing and 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. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room located at the Perry Public Library, 3753 Main Street, Perry, Ohio 44081. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first pre-hearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene, which must include a list of the contentions that are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room 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 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 John N. Hannon; 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. Nucelar Regulatory Commission, Washington, DC 20555, and to Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N. Street, NW., Washington, DC, 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its intent to make a no significant hazards consideration finding in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated March 16, 1990, which is available for public inspection at the Commission's Public Document Room 2120 L Street, NW., Washington, DC 20555, and at the local pubic document room, Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Dated at Rockville, Maryland, this 28th day of March, 1990.

For the Nuclear Regulatory Commission.

**John N. Hannon,**

*Director, Project Directorate III-3, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.*

[FR Doc. 90-7846 Filed 4-4-90; 8:45 am]

BILLING CODE 7590-01-M

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**[Docket No. 50-461]**

## Illinois Power Co., et al.; Issuance of Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has issued Amendment No. 33 to Facility Operating License No. NPF-62 issued to the Illinois Power Company (IP), and Soyland Power Cooperative, Inc. (the licensees), for operation of the Clinton Power Station, Unit 1, located in DeWitt County, Illinois.

The amendment consists of changes to Technical Specification Table 3.3.7.5-1 to add a note allowing inoperability of primary containment isolation valve position indication when the valve/valve operator is electrically deactivated in the isolated position.

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.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on May 27, 1988 (53 FR 19359). No request for hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment and Finding of No Significant Impact related to the action and has determined not to prepare an environmental impact statement. Based upon the Environmental Assessment, the Commission has concluded that the issuance of this amendment will not have a significant effect on the quality of the human environment.

For further details with respect to the action see (1) the application for amendment dated February 5, 1988, (2) Amendment No. 33 to License No. NPF-62, and (3) the Environmental Assessment and Finding of No Significant Impact. All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC; and at Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Dated at Rockville, Maryland, this 29th day of March 1990.

For the Nuclear Regulatory Commission.

**John B. Hickman,**

*Project Manager, Project Directorate III-2, Division of Reactor Projects—III, IV, V and Special Projects.*

[FR Doc. 90-7845 Filed 4-4-90; 8:45 am]

BILLING CODE 7590-01-M

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**[Docket No. 50-322, License No. NPF-82]**

## Long Island Lighting Co., Shoreham Nuclear Power Station; Confirmatory Order Modifying License (Effective Immediately)

I.

Long Island Lighting Company (LILCO) is the holder of Facility Operating License NPF-82 issued by the Nuclear Regulatory Commission (the NRC) pursuant to 10 CFR part 50 on April 21, 1989. The license authorizes the operation of the Shoreham Nuclear Power Station in accordance with conditions specified therein. The facility is located on the licensee's site in the Town of Brookhaven, Suffolk County, New York.

II.

On February 28, 1989, LILCO entered into an agreement with the State of New York to transfer its Shoreham assets to an entity of the State for decommissioning. However, LILCO continued to pursue with the NRC its request for a full-power license to operate its Shoreham plant. On April 21, 1989, the NRC issued to LILCO Facility Operating License NPF-82, which allows full-power operation of the Shoreham plant. On June 28, 1989, LILCO's shareholders ratified LILCO's agreement with the State. License transfer is contingent on NRC authorization. Consistent with the terms of the settlement agreement, which prohibits further operation of the Shoreham facility, LILCO has completed defueling the reactor and has reduced its staff. Further, LILCO is proceeding with its plans to discontinue customary maintenance for systems LILCO considers unnecessary to support operation when all the fuel is placed in the spent fuel pool, by deenergizing and protecting these systems rather than maintaining them in an operational, ready condition.

Defueling activities began on June 30, 1989. The vessel head was detensioned and removed on July 8, 1989. Fuel movement began on July 13, 1989. Defueling was completed on August 9, 1989. Also during the period of June 30 through August 9, 1989, LILCO was in the process of reducing its operating and support staff. LILCO has assured the NRC that it would ensure adequate staffing to conform to the requirements of its license for the shutdown condition. The staff has concluded that LILCO's site staffing meets the requirements of the Shoreham Updated Safety Analysis Report and the Technical Specifications for the plant's defueled condition. However, staffing is currently below that which would be needed if the plant were to return to an operating or standby mode.

III

The NRC has determined that the public health and safety require that the licensee not return fuel to the reactor vessel for the following reasons: (1) The reduction in the licensee's onsite support staff below that necessary for plant operations, and (2) the absence of NRC-approved procedures for returning to an operational status systems and equipment that the licensee has decided to deactivate and protect rather than maintain until ultimate disposition of the plant is determined. Such systems and equipment include all emergency core cooling systems, most of the plant's safety-related systems, and most of the plant's auxiliary support systems. If LILCO were to place nuclear fuel into the reactor vessel, this could result in a core configuration that could become critical and produce power without a sufficient number of adequately trained personnel to control operation. In addition, it is questionable whether necessary safety equipment would be available.

On January 12, 1990, the licensee submitted a letter in which it stated that it would not place nuclear fuel back into the Shoreham reactor without prior NRC approval. I find the licensee's commitment as set forth in its letter of January 12, 1990, acceptable and necessary, and I conclude that with this commitment, the plant's safety is reasonably assured. In view of the foregoing, I have determined that the public health and safety require that the licensee's commitment in its January 12, 1990, letter not to place nuclear fuel into the Shoreham reactor vessel without prior NRC approval be confirmed by this Order. Pursuant to 10 CFR 2.204, I have

also determined that the public health and safety require that this Order be effective immediately. This Confirmatory Order in no way relieves the licensee of the terms and conditions of its operating license or of its commitments covering the continued maintenance of structures, systems, and components outlined in its letter of September 19, 1989.

Accordingly, pursuant to sections 103, 161b, and 161i of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR Part 50, it is hereby ordered, EFFECTIVE Immediately, that Facility Operating License NPF–82 be modified as follows:

The licensee is prohibited from placing any nuclear fuel into the Shoreham reactor vessel without prior approval from the NRC.

V.

Any person adversely affected by this Confirmatory Order may request a hearing within twenty days of its issuance. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Chief, Docketing and Services Section. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, and to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406. If such a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(a). A request for hearing shall not stay the immediate effectiveness of this confirmatory order.

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

Dated at Rockville, Maryland, this 29th day of March 1990.

For the Nuclear Regulatory Commission.

**Bruce A. Boger,**

*Acting Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 90–7844 Filed 4–4–90; 8:45 am]

BILLING CODE 7590–01–M

## RAILROAD RETIREMENT BOARD

### Agency Forms Submitted for OMB Review

**AGENCY:** Railroad Retirement Board.

**ACTION:** In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

**SUMMARY OF PROPOSAL(S):**

(1) *Collection title:* Availability for Work
(2) *Form(s) submitted:* UI–38, UI–38S and ID–8K
(3) *OMB Number:* 3220–0164
(4) *Expiration date of current OMB clearance:* Three years from date of OMB approval
(5) *Type of request:* Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection
(6) *Frequency of response:* On occasion
(7) *Respondents:* Individuals or households, Non-profit institutions
(8) *Estimated annual number of respondents:* 15,000
(9) *Total annual response:* 24,000
(10) *Average time per response:* .13025 hours
(11) *Total annual reporting hours:* 3,126
(12) *Collection description:* Under section 1(k) of the Railroad Unemployment Insurance Act, unemployment benefits are not payable for any day for which the claimant is not available for work. The collection obtains information needed by the RRB to determine whether a claimant is willing and ready to work.

**ADDITIONAL INFORMATION OR COMMENTS:** Copies of the proposed forms and supporting documents can be obtained from Dennis Eagan, the agency clearance officer (312–751–4693). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Shannah Koss-McCallum (202–395–7316), Office of Management and Budget, Room 3002, New Executive Office Building, Washington, DC 20503.

**Dennis Eagan,**

*Clearance Officer.*

[FR Doc. 90–7836 Filed 4–4–90; 8:45 am]

BILLING CODE 7905–01–M

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–27851; Filed No. SR–AMEX–89–05]**

### Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Approving Proposed Rule Change Providing for the Accelerated Comparison and Correction of Securities Transactions

March 27, 1990.

On March 8, 1989, the American Stock Exchange, Inc. ("Amex") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change (File No. SR–Amex–89–05) under section 19(b)(1) of the Securities Exchange of 1934 ("Act"), 15 U.S.C. 78s(b)(1). The proposal provides for the accelerated comparison and correction of securities transactions. Notice of the proposal was published in the **Federal Register** on April 26, 1989, to solicit comments from interested persons.[1] No comments were received. On August 18, 1989, the Commission issued an order approving the proposal on a temporary basis through December 31, 1989,[2] and on December 29, 1989, the Commission issued an order approving the proposal on a temporary basis through March 31, 1990.[3] On March 23, 1990, Amex requested permanent approval of the proposed rule change.[4] This order approves the proposal on a permanent basis.

#### I. Description of the Proposal

The rule change consists of proposed Rule 719, which requires that each regular-way trade[5] in stocks, rights, and warrants be compared or otherwise closed out by the close of business day following the trade date (*i.e.*, T+1). Previously, Amex rules required that such trades be compared or closed out by T+5. Thus, the proposal, when fully implemented, could shorten the comparison cycle by four business days. The proposal, however, will have no effect on the settlement of transations, the majority of which will continue to settle on T+5.

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[1] *See* Securities Exchange Act Release No. 26741 (April 18, 1989), 54 FR 18058.

[2] *See* Securities Exchange Act Release No. 27152 (August 18, 1989), 54 FR 39238.

[3] *See* Securities Exchange Act Release No. 27582 (December 29, 1989,) 55 FR 1133.

[4] *See* letter from James F. Duffy, General Counsel, Amex, to Jonathan G. Katz, Secretary, SEC, dated March 23, 1990.

[5] A "regular-way trade" is a trade between Amex members that, by its terms, settles five business days after the trade date. *See* Amex Rule 124(c).

Amex indicates in its filling that it has been working for over two years with the New York Stock Exchange ("NYSE"),[6] the National Securities Clearing Corporation ("NSCC"),[7] and the Amex member firm community to establish the systems and rules necessary to implement T+1 comparison. Amex's proposed Rule 719 (which is an enabling rule, not a rule of implementation) directs Amex members and member organizations to comply with such other rules and procedures as may be adopted by Amex or NSCC for: (1) The comparison or settlement of transactions, (2) the resolution of uncompared or questioned trades, and (3) the collection and submission of audit trail data.[8] Amex also noted in its filing that its Rule 719, like NYSE Rule 130 (*i.e.* NYSE's compare or close out rule), will require up to 18 months to implement fully, as measured from the date that the Commission first approved the rule proposal on a temporary basis (*i.e.*, from August 18, 1989).

Amex commenced a phase-in of its accelerated trade comparison operations on Saturday, August 19, 1989. That phase-in was effected in conjunction with an industry-wide effort, including NYSE and NSCC, to begin accelerated comparison on that date. Specifically, Amex shortened: (1) The period for resolving "Don't Know" trades ("DKs")[9] by 24 hours (from end-of-business on T+3 to end-of-business on T+2),[10] and (2) its trade comparison cycle for non-system trades[11] by 11 hours (from 1:00 p.m. on T+1 to 2:00 a.m. on T+1) in conformity with NSCC's companion proposal.[12] On Saturday, February 24, 1990, as part of a second industry-wide effort, Amex shortened its period for resolving DKs by another 24 hours, from end-of-business on T+2 to end-of-business on T+1.[13]

Amex's automated trade correction system, known as the Intra-Day Comparison System ("IDC"), became operational on November 27, 1989. During the preceding three month period from August 19 to November 27, 1989, Amex had been using an improved version of its existing manual correction system, which had been modified to shorten its cycle by the necessary 24 hours.[14] On January 24, 1990, Amex filed with the Commission a regular-way rule proposal under section 19(b)(1) of the Act covering the operation of IDC.[15]

## II. Rationale for the Proposal

Amex believes that the proposed rule change is consistent with the Act because it facilitates the prompt and accurate clearance and settlement of securities transactions. Moreover, Amex states in its filing that the shortening of the comparison cycle for regular-way equity trades to T+1 would improve the marketplace by: (1) Increasing the efficiency of the post-trade comparison process, and (2) reducing the time that its member organizations are exposed to the risk of market fluctuations on uncompared trades.

## III. Discussion

The Commission believes that the proposal is consistent with the Act. The Commission believes that the proposal, by shortening the comparison and correction cycles for Amex regular-way equity trades, benefits the marketplace by: (1) Contributing to the prompt and efficient clearance and settlement of securities transactions, and (2) reducing the risk exposure to investors and to Amex members. Moreover, the Commission reiterates that the proposed rule change is similar to an NYSE proposed rule change already approved by the Commission.[16] The Commission also believes that the proposal is an appropriate way for Amex to notify members of its intention to shorten the time frames for comparison of regular-way equity trades and for close-out of uncompared and DK trades.

The Commission notes that Amex has made substantial progress in developing and testing systems necessary to implement this proposal. As described above, NSCC has shortened, to the early morning hours of T+1, the time frame for Amex member submission of trade data in order to permit NSCC to issue on the morning of T+1 reports that identify compared and uncompared trades. Also, Amex has developed and successfully tested the IDC System's hardware and software. As noted above, the Commission recently approved IDC, on a temporary basis until May 31, 1990.[17]

## IV. Conclusion

For the reasons discussed above, the Commission finds that the proposed rule change is consistent with the Act, particularly sections 6(b)(5) and 17A of the Act, and the rules and regulations thereunder.

*It is therefore ordered,* pursuant to section 19(b)(2) of the Act that the above-mentioned proposed rule change [File No. SR–Amex–89–05] be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority (17 CFR 200.3(a)(12)).

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 90–7791 Filed 4–4–90; 8:45 am]

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[6] The Commission already has approved a parallel NYSE rule filing. *See* Securities Exchange Act Release No. 26627 (March 14, 1989), 54 FR 11470 [Filed No. SR–NYSE–88–36].

[7] For the NSCC's companion rule filing to NYSE Rule 130 and proposed Amex Rule 719, *see* Securities Exchange Act Release No. 27074 (July 28, 1989), 54 FR 32405 [File No. SE–NSCC–89–04]. *See also* Securities Exchange Act Release No. 26783 (May 4, 1989), 54 FR 20221 [File No. SR–NSCC–89–02].

[8] Amex had advised the Commission that it plans to adopt a series of procedures within the general framework of Rule 719 whereby the implementation of Rule 719 would be carried forward. Telephone conversation between Paul G. Stevens, then Executive Vice President for Operations, Amex, and Thomas C. Etter, Attorney, SEC (June 16, 1989).

[9] The term "DK," in this context, means an uncompared trade that remains uncompared after a designated point in time. *See* Amex Rule 723.

[10] *See* Amex's Information Circular #89–131 (August 15, 1989) for discussion of its proposal to shorten from T+3 to T+2 its time frames for resolving DKs.

[11] A "non-system trade" involves traditional two-sided comparison where the buying and selling brokers submit trade data to the clearing agency. Its counterpart, a "system trade" or "locked-in trade," is a transaction in an automated system where the entity that operates the system or its specialists become the contra-side to each half of the trade. *See* Division of Market Regulation, Securities and Exchange Commission, *The October 1987 Market Break* (February 1988) at 10–3.

[12] Telephone conversations between George E. Stokes, Assistant Vice President, Amex, and Thomas C. Etter, Attorney, SEC (August 16, 1989 and December 26, 1989). *See* Amex Information Circular, No. 89–131, dated August 15, 1989; NSCC Important Notice, No. A3218, dated July 18, 1989. *See, supra,* note 7 for NSCC's rule proposals.

Regarding system trades, the Commission notes that the new comparison cycle (*i.e.*, 2:00 a.m. on T+1) already had been implemented by Amex for such trades prior to the general phase-in on August 19, 1989. Thus, system trades were not part of that phase-in at Amex. Telephone conversation between Carmine Barbado, Director, Systems Technology Department, Amex, and Thomas C. Etter, Attorney, SEC (December 28, 1989).

[13] Telephone converstion between Carmine Barbado, Director, Systems Technology Division, Amex, and Thomas C. Etter, Attorney, SEC (March 22, 1990). *See* Amex Information Circular #90–22, dated Janaury 22, 1990, included as Exhibit A to File No. SR–Amex–90–01.

[14] Telephone conversations between George E. Stokes, Assistant Vice President, Amex, and Thomas C. Etter, Attorney, SEC (August 16 and December 26, 1989). *See* NSCC Important Notice, No. A3218, dated July 18, 1989.

[15] The Commission approved the IDC proposal on a temporary basis through May 31, 1990. *See* Securities Exchange Act Release No. 27809 (March 16, 1990), 55 FR 11074.

[16] *See, supra,* note 6.

[17] *See, supra,* note 15.

[Release No. 34-27862; File No. SR-DTC-89-01]

## Self-Regulatory Organizations; Depository Trust Company; Filing and Order Granting Accelerated Approval of a Proposed Rule Change Concerning the Rush Withdrawal Transfer Service

March 29, 1990.

On January 18, 1989, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), the Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change to authorize DTC to institute, on a pilot basis, a new Rush Withdrawal Transfer ("RWT") service for corporate issues settling in next-day funds that are not full Fast Automated Securities Transfer ("FAST") issues.[1] Notice of the proposal was published in the **Federal Register** on April 24, 1989.[2] No comments were received. On July 21, 1989, pursuant to section 19(b)(2) of the Act, the Commission approved the proposal on a temporary basis until December 30, 1989.[3] Subsequently, the Commission extended the pilot program until March 31, 1990.[4] DTC has requested extension of the proposal until December 31, 1990.[5] This order approves the pilot program on an accelerated basis until December 31, 1990.

As discussed in detail in the order granting temporary approval,[6] the Commission preliminarily finds that the proposed rule change is consistent with the requirements of section 17A of the Act as it is designed to facilitate the prompt and accurate clearance and settlement of securities transactions by allowing transfer agents to process ownership transfers on an expedited basis.

DTC has operated RWT on a pilot basis for approximately 8 months. Accelerated approval of the proposal will allow DTC to gain further operational experience on an uninterrupted basis and allow the Commission to continue its review of the proposal. Thus, the Commission finds that good cause exists, pursuant to section 19(b)(2) of the Act, for approving this proposal prior to the thirtieth day after the date of publication of the notice in the **Federal Register**.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying 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 DTC. All submissions should refer to file number SR-DTC-89-01 and should be submitted by April 26, 1990.

*It is therefore ordered,* pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR-DTC-89-01) be, and hereby is, approved on an accelerated basis until December 31, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 90-7792 Filed 4-4-90; 8:45 am]

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[1] On May 31, 1989, prior to Commission approval, DTC amended DTC-89-01 to include the operating procedures for RWT. *See* Securities Exchange Act Release No. 26883 (June 1, 1989), 54 FR 24613 (June 8, 1989).

[2] *See* Securities Exchange Act Release No. 26730 (April 14, 1989), 54 FR 16438-F.

[3] *See* Securities Exchange Act Release No. 27052 (July 21, 1989), 54 FR 31600 (July 31, 1989).

[4] *See* Securities Exchange Act Release No. 27518 (December 7, 1989), 54 FR 42081 (December 20, 1989).

[5] *See* letter, dated February 16, 1990, from Patricia Trainor, Associate Counsel, DTC, to Jonathan Kallman, Assistant Director, Division of Market Regulation, Commission.

[6] *See*, note 3, *supra*.

[Release No. 34-27850; File No. SR-NSCC-90-01]

## Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving, on an Accelerated Basis, a Proposed Rule Change Relating to the Admission to Securities Clearing Group of Boston Stock Exchange Clearing Corporation and MBS Clearing Corporation

March 27, 1990.

On January 19, 1990, the National Securities Clearing Corporation ("NSCC") filed a proposed rule change (File No. SR-NSCC-90-01) with the Securities and Exchange Commission ("Commission") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1). Notice of the proposal was published in the **Federal Register** on February 27, 1990.[1] No comments were received by the Commission. This order approves the proposal on an accelerated basis.

### I. Description of the Proposal

The proposed rule change consists of two amendments to the SCG Agreement,[2] an Agreement executed on October 19, 1988 by the seven founding members of SCG.[3] The SCG Agreement was approved by the Commission on July 18, 1989.[4]

NSCC's proposed amendments to the SCG Agreement would: (1) Admit Boston Stock Exchange Clearing Corporation ("BSECC") and MBS Clearing Corporation ("MBSCC") as members of SCG, and (2) modify the SCG Agreement's notice provisions by centralizing distribution of notices through the Secretary of SCG. The text of the two amendments would be added at the end of the existing SCG Agreement.[5]

The filing states that BSECC is the clearing agency affiliated with the Boston Stock Exchange and states that MBSCC was formed by the Midwest Stock Exchange for the purpose of clearing mortgage-backed securities. The filing further states that both BSECC and MBSCC have participants in common with other members of SCG and that, therefore, they share operational and financial exposure with SCG members. NSCC asserts that the inclusion of BSECC and MBSCC in SCG would expand SCG's sources for information sharing and would further enable SCG to minimize the risks to its member clearing agencies.

### II. Rationale

NSCC states in its filing that the proposal, by admitting BSECC and MBSCC to the SCG, would foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions. Additionally, NSCC states that the

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[1] *See* Securities Exchange Act Release No. 27716 (February 21, 1990), 55 FR 6855.

[2] For the full text of the SCG Agreement, *see* Seccurities Exchange Act Release No. 26300 (November 21, 1988), 53 FR 48353.

[3] The seven founding members of SCG were: NSCC, Depository Trust Company, Midwest Clearing Corporation, Midwest Securities Trust Company, Options Clearing Corporation, Philadelphia Depository Trust Company, and Stock Clearing Corporation of Philadelphia.

[4] *See* Securities Exchange Act Release No. 27044 (July 18, 1989), 54 FR 30963.

[5] NSCC states in its filing that the proposal was approved by the SCG members at an SCG meeting held on November 9, 1989.

proposed modifications to SCG's notice provisions would permit more efficient handling of SCG's notices by centralizing their distribution through the Secretary of SCG.

### III. Discussion

The Commission believes that NSCC's proposal is consistent with the Act. As required by the SCG Agreement, BSECC and MBSCC are clearing agencies and self-regulatory organizations. Moreover, the Commission believes that increasing SCG membership will increase SCG's sources of information sharing and thereby make SCG more effective, which, in turn, will minimize financial and operational risks to clearing agencies.

The Commission notes that it addressed these issues in Securities Exchange Act Release No. 27044, the Commission's order that approved the SCG Agreement and established SCG.[6] In that order, the Commission emphasized that a nexus or interpendence exists among clearing agencies.[7] The Commission concluded, among other things, that the risks shared by clearing agencies, particularly the risk of default by a common participant, can be reduced by greater communication among clearing agencies, including a sharing of information by clearing agencies on their common participants. The Commission determined that the formation of SCG was the best way to fill this need.

Moreover, when the SCG was formed, its founding members intended that its membership would be expanded, pursuant to the terms of the SCG Agreement. BSECC and MBSCC, as clearing agencies registered under the Act, qualify for such SCG membership.

The proposal also would modify SCG's notice provisions (*i.e.*, centralizing distribution of notices through the SCG's Secretary) in order to improve the efficiency of SCG's communications. The Commission believes that such efforts to improve SCG's communications likewise would further the purposes of SCG. Accordingly, the Commission believes that the proposal is consistent with the Act, particularly Section 17A of the Act, and that it should be approved.

Inasmuch as it would be in the public interest for SCG members to have the ability to exchange information with BSECC and MBSCC on common participants, the Commission finds that "good cause" exists, pursuant to section 19(b)(2) of the Act, for approving this proposal prior to the thirtieth day after publication of notice in the **Federal Register.**

### IV. Conclusion

For the reasons discussed in this order, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act that the above-mentioned proposed rule change (File No. SR–NSCC–90–01) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 90–7793 Filed 4–4–90; 8:45 am]

BILLING CODE 8010–01–M

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**[Release No. 34–27863; File Nos. SR–PHILADEP–89–02; SR–NSCC–89–10 and SR–MSTC–88–08]**

## Self-Regulatory Organizations; Philadelphia Depository Trust Company; National Securities Clearing Corporation; Midwest Securities Clearing Corporation; Filing and Order Granting Accelerated Approval of Proposed Rule Changes Concerning Telecommunications Systems

March 29, 1990.

On April 26, 1989, July 19, 1989, and December 2, 1988, respectively, Philadelphia Depository Trust Company ("Philadep"), National Securities Clearing Corporation ("NSCC"), and Midwest Securities Trust Company ("MSTC") filed proposed rule changes with the Securities and Exchange Commission ("Commission").[1] Notices of the proposals were published in the **Federal Register.**[2] Pursuant to section 19(b)(2) of the Act, the Commission approved these proposals on a temporary basis until March 31, 1990.[3] Philadep, NSCC and MSTC have requested an extension so that they may provide the Commission with further operational data concerning the proposals.[4] This order extends the proposals until June 30, 1990.

Philadep's proposal would authorize Philadep to offer its participants additional telecommunication services including interfaced clearing agency services, and increased protection against unauthorized access to participant account information. NSCC's proposal would authorize NSCC to operate a data communications service which establishes a communications link for automated transmission of data between NSCC members' computers and NSCC's computer. MSTC's proposed rule change is designed to provide File Transmission Service ("FTS") users with a new method of submitting depository delivery instructions to MSTC. Under MSTC's proposal, participants may transmit depository delivery instructions directly from their computers to MSTC's computers.

As discussed in detail in the orders approving the proposals, the Commission preliminarily finds that the proposals are consistent with the Act, and, in particular, section 17A of the Act. The Commission believes that Philadep's, NSCC's, and MSTC's proposals promote the prompt and accurate clearance and settlement of securities transactions by encouraging use of automated systems for transmitting and processing data.

Accelerated approval of the proposals will allow Philadep, NSCC and MSTC to gain further operational experience on an uninterrupted basis and allow the Commission to continue its review of the proposals. Thus, the Commission finds that good cause exists, pursuant to section 19(b)(2) of the Act, for approving these proposals prior to the thirtieth day after the date of publication of the notice in the **Federal Register.**

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[6] *See, supra*, note 4.

[7] The Commission stated that this nexus among clearing agencies includes: (1) Common participants, (2) operational interfaces between clearing agencies, (3) shared operational and financial exposure, and (4) common regulatory responsibilities. *Id.*

[1] MSTC's proposed rule change was filed on December 2, 1988, pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934 ("Act"). Subsequently on January 3, 1989, MSTC amended its proposal so that it may be revised by the Securities and Exchange Commission ("Commission") pursuant to section 19(b)(2) of the Act.

[2] *See* Securities and Exchange Act Release Nos. 26872 (May 30, 1989), 54 FR 24451; 27143 (August 15, 1989), 54 FR 34845; and 26418 (January 4, 1989), 54 FR 1040.

[3] *See* Securities Exchange Act Release Nos. 27491 (November 30, 1989), 54 FR 50556 (December 7, 1989) and 27381 (October 25, 1989), 54 FR 46174 (November 1, 1989) approving Philadep's and NSCC's proposals, respectively. MSTC's proposed rule change was initially approved until March 31, 1989, and subsequently extended three times (September 30, 1989; June 30, 1989; and March 31, 1990). *See* Securities Exchange Act Release Nos. 26418 (January 4, 1989), 54 FR 1040 (January 11, 1989); 26689 (April 3, 1989), 54 FR 14307 (April 10, 1989); 26995 (June 30, 1989), 54 FR 29127 (July 11, 1989); and 27311 (September 28, 1989), 54 FR 41192 (October 5, 1989).

[4] *See* letters, dated March 21, 1990, and March 28, 1990, respectively, from William Uchimoto, General Counsel, Philadep, and Jeffrey Lewis, Associate Counsel, MSTC, to Sonia Burnett, Staff Attorney, Division of Market Regulation, Commission; and *see* letter from Allison Hoffman, Associate Counsel, NSCC, dated March 21, 1990, to Ester Saverson, Branch Chief, Division Market Regulation, Commission.

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 offices of Philadep, NSCC and MSTC. All submissions should refer to file numbers SR–Philadep–89–10 and SR-MSTC–88–08 and should be submitted by April 26, 1990.

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act, that the proposed rule changes (SR–Philadep–89–02, SR–NSCC–89–10, and SR–MSTC–88–08) be, and hereby are, extended until June 30, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 90–7794 Filed 4–4–90; 8:45 am]

BILLING CODE 8010–01–M

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**[Rel. No. IC–17403; 812–7419]**

## The Multiple Adviser Fund L.P. (Formerly Hutton Options Trading L.P.), Shearson Lehman Investment Strategy Advisors Inc.; Application

March 28, 1990.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

**APPLICANTS:** The Multiple Adviser Fund L.P. (formerly Hutton Options Trading L.P. (the "Partnership") and Shearson Lehman Investment Strategy Advisors Inc. (the "Corporate General Partner").

**RELEVANT 1940 ACT SECTIONS:** Exemption requested under section 6(c) for an order exempting the Partnership and certain of its general and limited partners from the provisions of sections 2(a)(19, 2(a)(3)(D), and 22(e) of the Act.

**SUMMARY OF APPLICATION:** Applicants seek an order (a) exempting the Partnership and certain of its general partners ("General Partners") from the provisions of section 2(a)(19) of the Act to the extent that those General Partners would be deemed "interested persons" of the Partnership solely because of their status as General Partners, (b) exempting persons who are the limited partners ("Limited Partners") and who own less than a five percent (5%) equity interest in the Partnership from the definition of "affiliated persons" contained in section 2(a)(3)D) of the Act to the extent that the Limited Partners would be "affiliated persons" solely because they are partners in the Partnership and (c) exempting the Applicants from the provisions of section 22(e) of the Act to the extent that those provisions might void provisions in the Amended and Restated Agreement of Limited Partnership ("Partnership Agreement") that restricts the rights of General Partners to redeem their units of limited partnership interests ("units") of the Partnership.

**FILING DATE:** The application was filed on October 26, 1989, and amended on March 8, 1990 and March 16, 1990.

**HEARING OR NOTIFICATION OF HEARING:** A conditional order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or my mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 23, 1990, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street, NW., Washington DC 20549. The Multiple Adviser Fund L.P., Shearson Lehman Investment Strategy Advisors Inc., Two World Trade Center, New York, New York 10048, with a copy to Paul F. Roye, Esq., Dechert Price & Rhoads, 1500 K Street NW., Suite 500, Washington DC 20005.

**FOR FURTHER INFORMATION CONTACT:** Marc Duffy, Staff Attorney, at (202) 272–2511, or Max Berueffy Branch Chief, at (202) 272–3016.

**SUPPLEMENTARY INFORMATION:** Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231–3282 (in Maryland (301) 258–4300).

### Applicant's Representations

1. The Partnership is an open-end, non-diversified, management investment company that was organized as a limited partnership under the laws of the State of Delaware on November 17, 1987. On that same date, the Partnership filed with the SEC a Notification of Registration on Form N–8A pursuant to section 8(a) of the Act, and a Registration Statement on Form N–1A under the Act and the Securities Act of 1933, as amended ("Registration Statement") (File No. 33–18584). On January 30, 1990, the Fund filed with the Commission Pre-effective Amendment No. 1 to its Registration Statement on Form N–1A.

2. Under the terms of the Partnership Agreement, the Partnership will terminate on December 31, 2037, unless dissolved sooner under the terms of the Partnership Agreement. Upon termination, the Partnership will be liquidated and all remaining assets shall be distributed pro rata to the holders of interest in the Partnership.

3. The General Partners of the Partnership will include five individuals (the "Individual General Partners") and one Corporate General Partner. A majority of the Individual General Partners will not be "interested persons" (as defined in the Act) of the Fund (the "Independent General Partners"). The Individual General Partners will perform the same functions for the Partnership as do the directors of a registered investment company organized as a corporation. The Individual General Partners wil have complete and exclusive control over the management, conduct and operation of the Partnership's business. Under the terms of the Partnership Agreement, the Corporate General Partner is permitted to participate in the management of the Partnership as a General Partner only in the event that no Individual General Partner remains to elect to continue the business of the Partnership and then only for the limited period of time (not in excess of 60 days) necessary to convene a meeting of the General and Limited Partners (collectively, the "Partners") for the purpose of making such an election.

4. The Partnership Agreement provides that a meeting of the Partners will be held within one year after the first sale of units to the public (the "Intial Meeting"). At the Initial Meeting, the Partners, among other things, will vote upon the approval and election of General Partners. The Partners holding

66⅔% of the units of the Partnership may remove a General Partner by written consent or by a vote cast in person or by proxy at a meeting of the Partners called for such purpose. Partners holding more than 10% of the Partnership's outstanding units may call a meeting of Partners for the purpose of voting on the removal of a General Partner.

5. Under the Partnership Agreement, each unit held by a General Partner is not assignable except to another person who already is a General Partner, and then only with the consent of a majority of the Individual General Partners. Units held by General Partners are redeemable by the Partnership only in the even that the holder of the units has ceased to be a General Partner or, in the opinion of the Partnership's counsel, that redemption of the units held by a General Partner would not jeopardize the status of the Partnership as a partnership for Federal income tax purposes.

6. As set forth in the Registration Statement, the Partnership's investment objective is to maximize total return. Under normal circumstances, the Partnership will seek to achieve its objective by investing at least 65% of its assets in long and short positions in domestic equity securities and options on such securities, options on stock indices, and stock index futures contracts and options thereon. The Partnership also may invest in equity securities of foreign issuers, debt securities, various types of options and money market instruments. The Partnership may hedge its securities investments by entering into transactions involving financial futures and options on financial futures. The Partnership may also enter into transactions involving financial futures and options thereon for purposes other than hedging, provided that certain requirements are met.

7. A maximum sales load of 5.5% will be imposed on purchases of units (5.82% of the net amount invested). The Partnership currently anticipates that the minimum initial investment will be $10,000, and subsequent investments will be at least $1,000. Units of the Partnership may be purchased only by investors who meet certain minimum net worth requirements as described in the Partnership's prospectus.

8. The Partnership was structured as a partnership, rather than as a corporation or business trust, to afford the Partnership flexibility to meet its investment objective, while enabling the Partnership and its Partners to receive, in effect, the "pass through" tax treatment typically available to registered investment companies and their shareholders. A registered investment company organized as a corporation or business trust typically seeks to qualify as a regulated investment company ("RIC") under subchapter M of the Internal Revenue Code of 1986, as amended (the "Code"). A registered investment company qualified as a RIC is not liable for Federal income taxes to the extent that it distributes its earnings in accordance with certain provisions of the Code; the fund's shareholders, however, are taxed on the distributions they receive. This "pass through" tax treatment is available only if the registered investment company meets certain requirements, which, if applicable to the Partnership, could limit the Partnership's proposed investment strategies. The Partnership was, therefore, structured as a limited partnership to obtain the benefits of this "pass-through" tax treatment without qualifying as a RIC under the Code.

9. To preserve the Partnership's tax status as a partnership, rather than as an association taxable as a corporation, the Individual General Partners and the Corporate General Partner will at all times own as a group not less than one percent (1%) of the units outstanding. Under the Partnership Agreement, the Corporate General Partner is obligated to purchase units from time to time so that the General Partners continue to meet the one percent (1%) requirement in the aggregate. Moreover, for so long as the Corporate General Partner serves in that capacity, it may not redeem or assign units it holds as the Corporate General Partner or otherwise accept distributions in cash or property if that action would result in the General Partners holding less than the required one percent (1%) interest in the Partnership. The Corporate General Partner may, however, voluntarily withdraw or otherwise voluntarily terminate its status as the Corporate General Partner provided that it gives the other Partners no less than 180 days written notice.

10. The Partnership Agreement provides that Limited Partners are not personally liable for debts or obligations of the Partnership unless they take part in the control of the Partnership's business. The Limited Partners do not have the right to take part in the control of the Partnership's business, but they may exercise the right to vote on matters requiring the approval of shareholders under the Act. Each unit will have one vote on all matters to be voted upon by the Partners and all units will participate equally in the profits and losses of the Partnership. Units held by Limited Partners are not transferrable, but they are fully redeemable by the Partnership at net asset value.

11. The Corporate General Partner will serve as the Partnership's investment adviser. In that capacity, it will allocate the Partnership's assets among various portfolio managers and monitor and evaluate the performance of the portfolio managers. The Partnership's proposed portfolio managers (collectively, the "Portfolio Managers"), are Ardsley Partners; Hellman, Jordan Management Co., Inc.; Mark Asset Management Corporation; McKenzie, Walker Investment Management; Nicholas-Applegate Capital Management; and SLH Asset Management, a division of Shearson Lehman Hutton, Inc. The Portfolio Managers will invest the assets allocated to them in accordance with the Partnership's investment objectives and policies. The Partnership anticipates that Tremont Partners, Inc. ("Tremont") will assist the Corporate General Partner in monitoring and evaluating the performance of the Portfolio Managers and in allocating the Partnership's assets among them. The Corporate General Partner, Tremont and the Portfolio Managers are each registered under the Investment Advisers Act of 1940 (the "Advisers Act") as an investment adviser. The Corporate General Partner, Tremont and the Portfolio Managers will each enter into written advisory agreements with respect to services to be provided by each to the Partnership in compliance with section 15 of the Act.

**Applicants' Legal Conclusions**

12. Sections 2(a)(19)(A) and 2(a)(19)(B) of the Act define an "interested person" of an investment company and of an investment adviser to include, among others, an "affiliated person" of the company or the investment adviser and an interested person of the investment adviser. An "affiliated person" of another person is defined in section 2(a)(3)(D) of the Act to include any officer, director, partner, co-partner or employee of the other person.

13. Each of the Individual General Partners is a partner of the Partnership and a co-partner of the Corporate General Partner and, thus under section 2(a)(3)(D), each may be deemed an "affiliated person" of the Partnership and the Corporate General Partner. As an "affiliated person" of the Partnership and the Corporate General Partner, each of the Individual General Partners, including each Independent General Partner, is an "interested person" of the

Partnership and the Corporate General Partner under section 2(a)(19)(A) and 2(a)(19)(B) of the Act. If all of the Individual General Partners were deemed "interested persons" of the Partnership and the Corporate General Partner, the Partnership would be unable to comply with provisions of the Act and the rules thereunder that requires various actions to be undertaken by the directors of a registered investment company who are not "interested persons" of the company. For example, the Partnership would be unable to comply with section 10(a) of the Act, which requires a registered investment company to have a board of directors at least 40% of whose members are not persons who are interested persons of the company.

14. Applicants argue that the exemption requested from section 2(a)(19) is consistent with the policies of the Act as reflected in the express language of that section, which provides that "no person shall be deemed to be an interested person of an investment company solely by reason of * * * his being a member of its board of directors or advisory board or an owner of its securities * * *." This provision reflects the policy that a director of a registered investment company should not be deemed an "interested person" of the company solely because of the position he or she holds with respects to the company. The Individual General Partners, including the Independent General Partners, will perform the same functions for the Partnership as do the directors of an investment company organized as a corporation. The Individual General Partners should thus be subject, for purposes of the Act, to treatment analogous to that afforded to corporate directors of investment companies, which result can be achieved if the Independent General Partners are not considered "interested persons" of the Partnership solely by virtue of being General Partners.

15. The "partner" and "copartner" provisions of section 2(a)(3)(D) of the Act create a potential problem with respect to Limited Partners who invest in the Partnership. Each Limited Partner, as a partner or copartner of the Partnership and each other Partner of the Partnership, could be deemed to be an affiliated person of the Partnership as well as of each other Limited Partner and the General Partners by virtue of having purchased units of the Partnership and having been admitted as a Limited Partner. Such a result would create enormous problems in the operation of the Partnership. The General Partners and the Limited Partners would have to scrutinize one another to determine whether there were any possible transactions that would violate the Act, an impossible task in the context of the constantly changing composition of interest holders in a limited partnership that has publicly offered securities.

16. The exemption requested from the definition of "affiliated person" contained in section 2(a)(3)(D) of the Act for Limited Partners who hold less than five percent (5%) of the Partnership's units will allow substantially similar treatment to the Limited Partners as that accorded to investors in investment companies organized as corporations or trusts. This will place these investments on an equal footing with the investments in companies organized as corporations or trusts and thus afford the Limited Partners, for purposes of the Act, the same treatment as corporate shareholders.

17. Section 22(e) of the Act provides, in pertinent part, that no registered investment company shall suspend the right of redemption or postpone the date of payment or satisfaction upon redemption of any redeemable security in accordacne with its terms for more than seven days after the tender of such security. Under section 47(b) of the Act, any contract whose performance involves the violation of any provisions of the Act shall be void.

18. The exemption from section 22(e) of the Act would allow the Partnership to enforce the requirements in the Partnership Agreement that each General Partner own at least one unit and that the General Partners as a group own at least one percent (1%) of the outstanding Partnership units (or such other minumum percentage as may at the time be required to preserve the status of the Partnership as a partnership for Federal tax purposes). Since the commitment of General Partners not to tender is similar to the commitment made by the original subscribers to the shares of an investment company organized as a corporation, the General Partners are taking the units with an investment intent. Like the commitment of original subscribers to an investment company, the General Partners' commitment benefits rather than harms public investors in the Partnership. Applicants argue that the requested exemption, therefore, is necessary and appropriate in the public interest and consistent with the purposes fairly intended by the policy and provisions of the Act.

**Applicants' Conditions**

If the requested exemptive order is granted, the Applicants agree to the conditions set forth below:

1. The General Partners of the Partnership, except the Corporate General Partner, will be natural persons and a majority of the Individual General Partners will not be interested persons of the Partnership.

2. The individual General Partners will assume the responsibilities and obligations imposed on directors of a registered investment company by the Act and the regulations thereunder. The Independent General Partners, all of whom are Individual General Partners, will assume the responsibilities and obligations imposed on non-interested directors of a registered investment company by the Act and the regulations thereunder.

3. The Corporate General Partner, as long as it acts as investment adviser to the Partnership, will not resign or withdraw as the non-managing General Partner of the Partnership unless a successor Corporate General Partner has been appointed in accordance with the Partnership Agreement and the provisions of sections 15(a), 15(c) and (15(f) of the Act.

4. The limited Partners will have the vote on all matters requiring their approval under the Act were they shareholders of an incorporated registered investment company, including the right to elect or remove General Partners, the right to approve any new or amended investment advisory contract, the right to approve proposed changes in the Partnership's fundamental policies structure, and the right to ratify or reject the appointment of auditors. All units will participate equally in the profits and losses of the Partnership, and each unit will have one vote on all matters to be voted upon by the Partners.

5. The Partnership will obtain an opinion of counsel stating that the voting rights provided the Limited Partners do not subject the Limited Partners to liability as general partners under Delaware law.

6. The Partnership will obtain an opinion of counsel that the distributions and allocations provided for in the Partnership Agreement are permissible under section 205 of the Advisers Act and under section 1(a) of the Act.

7. The Partnership will obtain an opinion of counsel or a ruling of the Internal Revenue Service that the current structure of the Partnership will entitle it to be taxed as a partnership for Federal income tax purposes.

8. The Partnership does not contemplate making in-kind distributions of portfolio securities to the General Partners. In any event, prior to making any such distribution, the Partnership will obtain either a no action letter from the staff of the SEC stating that such distribution does not violate the Advisers Act or an order of exemption pursuant to section 206A of the Advisers Act permitting such distribution.

For the Commission, by the Division of Investment Management, under delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 90-7798 Filed 4-4-90; 8:45 am]

BILLING CODE 8010-01-M

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**[Release No. 35—25067]**

## Filings Under the Public Utility Holding Company Act of 1935 ("Act")

March 30, 1990.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should sumit their views in writing by April 23, 1990 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified or any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

**Consolidated Natural Gas Company (70-7743)**

*Notice of Proposal to Amend Certificate of Incorporation and By-Law; Order Authorizing Proxy Solicitation*

Consolidated Natural Gas Company ("Consolidated"), CNG Tower, Pittsburgh, Pennsylvania 15222-3199, a registered holding company, has filed a declaration pursuant to sections 6(a), 7 and 12(e) of the Act and Rules 62 and 65 thereunder.

Consolidated proposes to amend and restate its Certificate of Incorporation ("Certificate") and to make conforming amendments to its By-Laws, where appropriate, which would: (1) Require a stockholder proposing the nomination of a person to the board of directors ("Board") to provide written notice, of not more than sixty days and not less than thirty calendar days prior to the date of the meeting at which directors are to be elected by the stockholders, stating certain information regarding the proposed nominee, and to be duly qualified to attend and vote at such meeting; (2) provide that any action required or permitted to be taken at any annual or special meeting of the stockholders may be taken without a meeting, without prior notice and without a vote, only with, in addition to any affirmative consent otherwise required by applicable law, the written consent of the holders of 75 percent or more of the issued and outstanding shares of Consolidated's common stock entitled to vote; (3) increase the minimum stockholding percentage required for a written request by stockholders of Consolidated's common stock for a mandatory call of a special stockholders' meeting by the Chairman of the Board from 50 percent to 75 percent of the issued and outstanding shares of Consolidated's common stock entitled to vote; (4) require the affirmative vote of at least two-thirds of the continuing Board members and a majority of the stockholders, or alternatively, a majority of the Board members and at least 75 percent of the stockholders, to effect an alteration, amendment, repeal or adoption of certain provisions of the Certificate; and (5) restate the Certificate to include the proposed amendments.

The proposed amendments of the Certificate must be authorized by an affirmative vote of a majority of the holders of Consolidated's outstanding common stock entitled to vote. The proposed amendments to the By-Laws must be authorized by an affirmative vote of the holders of a majority of shares of Consolidated's common stock present at the stockholders' meeting and entitled to vote. At February 23, 1990, Consolidated had 86,050,383 shares of its common stock issued and outstanding. No shares of preferred stock are outstanding. Consolidated, therefore, requests authority to solicit proxies from its stockholders for approval of the proposed amendments at the annual meeting to be held on May 15, 1990. Consolidated has filed its proxy solicitation material and requests that the effectiveness of its declaration with respect to the solicitation of proxies for voting by its stockholders on the proposal to amend and restate the Certificate and By-Laws be permitted to become effective as provided in Rule 62(d).

It appearing to the Commission that Consolidated's declaration regarding the proposed solicitation of proxies should be permitted to become effective forthwith, pursuant to Rule 62:

It is ordered, that the declaration regarding the proposed solicitation of proxies, be, and it hereby is, permitted to become effective forthwith, under Rule 62, and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 90-7796 Filed 4-4-90; 8:45 am]

BILLING CODE 8010-01-M

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**[File No. 1-8465]**

## Issuer Delisting; Sterling Software, Inc; Application to Withdraw from Listing and Registration

March 30, 1990.

In the matter of a notice of application to withdraw from listing and registration; Sterling Software, Inc., common stock, $0.10 par value; $7.20 exchangeable preferred stock, par value $0.10; 8% convertible senior subordinated debentures due 2001.

Sterling Software, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission") pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc., ("AMEX").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The Company's common stock recently was listed on the New York

Stock Exchange ("NYSE"). Trading in the Company's stock on the NYSE commenced on March 28, 1990. In making the decision to withdraw its Common Stock, Exchangeable Preferred Stock and Debentures from listing on the AMEX, the Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its Common Stock, Exchangeable Preferred Stock and Debentures on the NYSE and the AMEX. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for its Common Stock, Exchangeable Preferred Stock and Debentures.

Any interested person may, on or before April 20, 1990, submit by letter to the Secretary of the Commission, 450 Fifth Street NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 90-7801 Filed 4-4-90; 8:45 am]

BILLING CODE 8010-01-M

## SMALL BUSINESS ADMINISTRATION

**[Declaration of Disaster Loan Area #2413]**

### Declaration of Disaster Loan Area; California

Los Angeles County and the contiguous Counties of Kern, Orange, San Bernardino, and Ventura in the State of California constitute a disaster area as a result of damages from an earthquake which occurred February 28, 1990. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on May 21, 1990 and for economic injury until the close of business on December 21, 1990 at the address listed below: Disaster Area 4 Office, Small Business Administration, P.O. Box 13795, Sacramento, CA, 95853-4795, or other locally announced locations.

The interest rates are:

*For Physical Damage:*

Homeowners With Credit Available Elsewhere 8.000%

Homeowners Without Credit Available Elsewhere 4.000%

Businesses With Credit Available Elsewhere 8.000%

Businesses and Non-Profit Organizations Without Credit Available Elsewhere 4.000%

Others (Including Non-Profit Organizations) With Credit Available Elsewhere 9.250%

*For Economic Injury*

Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere 4.000%

The number assigned to this disaster for physical damage is 241302 and for economic injury the number is 704100 for the State of California.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 20, 1990.

**Susan Engeleiter,**

*Administrator.*

[FR Doc. 90-7851 Filed 4-4-90; 8:45 am]

BILLING CODE 8025-01-M

### Interest Rates

The interest rate of section 7(a) Small Business Administration direct loans (as amended by Pub. L. 97-35) and the SBA share of immediate participation loans is nine-and-one-half (9½) percent for the fiscal quarter beginning April 1, 1990.

On a quarterly basis, the Small Business Administration also publishes an interest rate called the optional "peg" rate (13 CFR 122.8-1 (d)). This rate is a weighted average cost of money to the government for maturities similar to the average SBA loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. For the April-June quarter of 1990, this rate will be eight-and-one-quarter (8¼) percent.

**Charles R. Hertzberg,**

*Acting Associate Administrator for Finance and Investment.*

[FR Doc. 90-7850 Filed 4-4-90; 8:45 am]

BILLING CODE 8025-01-M

### Secondary Market Sales; Elimination of Benchmark Constant Prepayment Rate

**AGENCY:** Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** The Small Business Administration is eliminating the benchmark constant prepayment rate (CPR) for use in reporting secondary market sales. In its place, the seller will use its best estimate of the CPR.

**DATES:** This change shall be effective on April 5, 1990.

**FOR FURTHER INFORMATION CONTACT:** James W. Hammersley, Director, Office of Secondary Market Activities, SBA, Room 800C, 1441 L Street NW., Washington, DC 20416 or 202-653-5954.

**SUPPLEMENTARY INFORMATION:**

The Secondary Market Improvements Act of 1984 requires that a seller of the guaranteed portion of an SBA guaranteed loan or of a pool certificate provide yield information to the buyer prior to the sale. The same Act also requires SBA to collect and report yield information on an annual basis to the Congress.

At the time the Act was passed, SBA had information that some sellers had not been informing investors that there was a prepayment risk on SBA guaranteed loan certificates. The problem created by this practice is the substantial overstatement of the yield to the potential investor.

In order to address this situation, SBA, in conjunction with the Public Securities Association, worked to develop a benchmark Constant Prepayment Rate (CPR). A constant prepayment rate is intended to provide a measure of the amount of principal that will be returned each year in excess of normal amortization. The rate that was set as the benchmark was 6 percent for variable rate notes and 8 percent for fixed rate notes. Information presently supplied by SBA on a periodic basis to the investment community for purposes of advising purchasers of SBA guaranteed securities of yield now states: "The purpose of the benchmark is twofold: (1) To produce a cash flow yield calculation based upon the average past performance of SBA loans and (2) to help investors choose between SBA loans, pools and alternative investments. Actual performance may differ from past results. The performance of a given loan or pool may differ from program-wide averages. Neither the SBA nor the FTA makes any representation as to the actual CPR of any particular loan or pool at any particular time. Individual investors may go beyond the benchmark rate and use various techniques to measure current prepayment rates or predict future prepayment rates."

While the 6 percent and 8 percent CPR were representative of the portfolio at the time they were adopted, it is now generally believed that these numbers no longer represent all available maturities and may cause a substantial

overstatement of the yield for some maturities. Furthermore, it has been brought to our attention that some broker/dealers may be misrepresenting the meaning of the benchmark CPR. The misrepresentation leads the prospective buyer to put more credence in this information than is warranted.

In order to address this situation and in recognition of the improvements in available information on secondary market sales, SBA is now eliminating the benchmark CPR for reporting purposes and will allow the seller to use and report a CPR that he or she considers representative for the pool under consideration for sale. A copy of the information supplied by the seller will be provided to the buyer by the FTA along with additional information on currently reported CPRs. The latter will allow the buyer to compare the CPR reported to him or her on the specific transaction with CPR information from other sources. It will be incumbent upon individual investors to contact their brokers if they believe the CPR quoted by their broker to be unreasonable. With this information, an investor will be in a better position to judge the performance of the broker.

SBA will monitor the CPRs used by sellers. SBA may limit the participation of those individuals or firms that use unreasonable CPRs. Use of unreasonable CPRs by pool assemblers is grounds for suspension from the program.

In conjunction with this change, SBA is making a modification to the method used to obtain the calculation of yield required to be used by sellers of SBA guaranteed securities for reporting purposes. Previously, the yield calculation was made to the weighted average maturity (WAM). Beginning with the effective date of this notice, the yield calculation will be made to the stated maturity of the pool.

SBA decided to eliminate the benchmark CPR for two reasons:

1. The range of CPRs found on the various maturities precludes the use of one benchmark. Further, the CPR may change over time, providing the possibility for misuse of information provided by the government.

2. Information is now available that will allow investors to perform their own analysis on the portfolio history and make their own determination of the appropriate CPR. SBA is able to monitor the CPRs reported by sellers and is in a position to take action against those who abuse this system.

We believe that this system will provide investors with the opportunity to obtain CPR information from a variety of sources prior to considering purchase. In addition, it will eliminate the possibility of misuse of information provided by the government and insure a continual supply of CPR information.

This change is effective immediately; however, SBA welcomes comments about this or any aspect of the secondary market program.

**Susan S. Engeleiter,**

*Administrator.*

[FR Doc. 90-7853 Filed 4-4-90; 8:45 am]

BILLING CODE 8025-01-M

## Small Business Investment Company; Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.302 (a) and (b) limit maximum annual Cost of Money (as defined in 13 CFR 107.3) that may be imposed upon a Small Concern in connection with Financing by means of Loans or through the purchase of Debt Securities. The cited regulation incorporates the term "Debenture Rate", which is defined elsewhere in 13 CFR 107.3 in terms that require SBA to publish, from time to time, the rate charged on ten-year debentures sold by Licensees to the public. Notice of this rate will be published upon change in the Debenture Rate.

Accordingly, Licensees are hereby notified that effective the date of publication of this Notice, and until further notice, the Debenture Rate to be used for computation of maximum cost of money pursuant to 13 CFR 107.302 (a) and (b) is 9.35 percent per annum.

13 CFR 107.302 does not supersede or preempt any applicable law imposing an interest ceiling lower than the ceiling imposed by its own terms. Attention is directed to section 308(i) of the Small Business Investment Act, as further amended by section 1 of Public Law 99-226, December 28, 1985 (99 Stat. 1744), to that law's Federal override of State usury ceilings, and to its forfeiture and penalty provisions.

(Catalog of Federal Domestic Assistance Program No. 59.011, small business investment companies)

Dated: March 29, 1990.

**Robert G. Lineberry,**

*Deputy Associate Administrator for Investment*

[FR Doc. 90-7855 Filed 4-4-90; 8:45 am]

BILLING CODE 8025-01-M

**[Application No.: 08/08-0147]**

## Ajax Venture Partners Ltd.; Application for a License to Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of section 301(c) of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661, *et seq.*) has been filed by Ajax Venture Partners Limited, 601 East Hyman Avenue, Aspen, Colorado 81611 (Applicant), with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1989).

The Management and Ownership of the Applicant, a Limited Partnership, are as follows:

| Name | Title or relationship | Percent of equity owned |
|---|---|---|
| Ajax Ventures, Inc., 601 East Hyman Avenue, Aspen, Colorado 81611. | Investment Advisor and Corporate General Partner (CGP) of Applicant. | 1.00 |
| Joseph K. Pagano, 2016 McClain Flats Road, Aspen, Colorado 81612. | Limited Partner of Applicant. President, Treasurer and Director of CGP. | 99.0 |
| Joel M. Pearlberg, 17 Hearthstone Terrace, Livingston, New Jersey 07039. | Vice President, Secretary and Director of CGP. | 0 |
| Theodore M. Serure, 816 Avenue J, Brooklyn, New York 11223. | Vice President, Assistant Secretary and Director of CGP. | 0 |

Ajax Ventures, Inc., the Corporate General Partner of the Applicant is wholly-owned by Joseph K. Pagano. Ajax Ventures, Inc. is a Delaware Corporation with its principal office in the state of Colorado.

The Applicant, a Colorado limited partnership, will begin operations with $1,000,100 in partnership capital. The Applicant will conduct its activities principally within the state of Colorado.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the partnership under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act of 1958, as amended, and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 30 days from the

date of publication of this Notice, submit written comments on the proposed Applicant. Any such communication shall be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street NW., Washington, DC 20416.

A copy of this notice shall be published in a newspaper of general circulation in Aspen, Colorado.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 30, 1990.

**Robert G. Lineberry,**

*Deputy Associate Administrator for Investment*

[FR Doc. 90-7856 Filed 4-4-90; 8:45 am]

BILLING CODE 8025-01-M

**[Application No. 03/03-0192]**

## Allied Investment Corp. II; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the SBA Regulations governing small business investment companies (13 CFR 107.102 (1989)) under the name of Allied Investment Corporation II (the Applicant), 1666 K St. NW., Suite 901, Washington, DC 20006 for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. *et seq.*), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and sole shareholders of the Applicant are as follows:

| Name | Title of Relationship |
|---|---|
| George C. Williams, 1666 K St., NW., Washington, DC 20006. | Chairman and Director. |
| David Gladstone, 1666 K St., NW., Washington, DC 20006. | President and Director. |
| Phil A. Pettit, American Express Tower, NY, NY 10285. | Director. |
| Lawrence I. Herbert, 800 17th St., NW., Washington, DC 20006. | Director. |
| Charles L. Palmer, 111 E. Las Olas Blvd., Ft. Lauderdale, FL 33302. | Director. |
| Smith T. Wood, 9014 Old Dominion Dr., McLean, VA 22102. | Director. |
| John D. Reilly, 1250 24th St., NW., Washington, DC 20037. | Director. |
| Craig L. Fuller, 1317 F St., NW., Washington, DC 20004. | Director. |
| Allied Capital Corporation II, 1666 K St., NW., Washington, DC 20006. | 100 percent. |

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owner and management, and the probability of successful operation of the company under their management, including adequate profitability and financial soundness, in accordance with the Act and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this notice, submit to SBA, in writing, relevant comments on the proposed licensing of this company. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

A copy of this notice shall be published in a newspaper of general circulation in the Washington, DC area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 20, 1990.

**Robert G. Lineberry,**

*Deputy Associate Administrator for Investment.*

[FR Doc. 90-7852 Filed 4-4-90; 8:45 am]

BILLING CODE 8025-01-M

**[Application No. 04/04-0255]**

## Skyline Capital Fund, L.P. Application for License to Operate as a Small Business Investment Company

An application for a license to operate a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*) has been filed by Skyline Capital Fund, L.P. (the Applicant) 400 Fifth Avenue South, Suite 301, Naples, Florida 33940, with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1990).

The proposed corporate general partner, manager and limited partner of the Applicant are as follows:

| Name and address | Title or relationship | Percentage of ownership |
|---|---|---|
| Skyline Capital Corp., 4450 Bonita Beach Rd, Suite 12, Bonita Springs, Florida 33923. | Corporate general partner. | 1 |
| Kenneth J. Gluckman, 963 Galleon Drive, Naples, Florida 33940. | President/Director and sole shareholder of the general partner and limited partner. | |

The Applicant will begin operations with a minimum of $1,100,000 in paid in capital and paid in surplus. The Applicant will conduct its activities primarily in the State of Florida but will consider investments in businesses in other areas in the United States.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the company under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act of 1958, as amended, and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, DC 20416.

A copy of this notice will be published in a newspaper of general circulation in Naples, Florida.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 30, 1990.

**Robert G. Lineberry,**

*Deputy Associate Administrator for Investment.*

[FR Doc. 90-7854 Filed 4-4-90; 8:45 am]

BILLING CODE 8025-01-M

## TENNESSEE VALLEY AUTHORITY

### Information Collection Under Review by the Office of Management and Budget

**AGENCY:** Tennessee Valley Authority.

**ACTION:** Information collection under review by the Office of Management and Budget (OMB).

**SUMMARY:** The Tennessee Valley Authority (TVA) has sent to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), as amended by Public Law 99-591.

Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Desk Officer for the Tennessee Valley Authority, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; Telephone: (202) 395-3084.

*Agency Clearance Officer:* Mark R. Winter, Tennessee Valley Authority, Edney Building 4W 13B, Chattanooga, TN 37402; (615) 751-2523

*Type of Request:* Regular submission.

*Title of Information Collection:* Section 26a Permit Application.

*Frequency of Use:* On occasion.

*Type of Affected Public:* Individuals or households, state or local governments, farms, businesses, or other for-profit, Federal agenices or employees, non-profit institutions, small businesses or organizations.

*Small Business or Organizations Affected:* Yes.

*Federal Budget Functional Category Code:* 452.

*Estimated Number of Annual Responses:* 2600.

*Estimated Total Annual Burden Hours:* 7800.

*Estimated Average Burden Hours Per Response:* 3.

*Need For and Use of Information:* Section 26a of the Tennessee Valley Act of 1933, as amended, requires that TVA review and approve plans for the construction, operation, and maintenance of any dam, appurtenant works, or other obstruction affecting navigation, flood control, or public lands or reservations across, along, or in the Tennessee River or any of its tributaries. The information collected is used to assess the impact of the proposed project on the statutory TVA programs and determine if the project can be approved. Rules on the application for review and approval of such plans are published in 18 CFR part 1304.

**Louis S. Grande,**

*Vice President, Information Services, Senior Agency Official.*

[FR Doc. 90-7838 Filed 4-4-90; 8:45 am]

BILLING CODE 8120-01-M

## Privacy Act of 1974; Proposed New and Revised Routine Uses

**AGENCY:** Tennessee Valley Authority (TVA).

**ACTION:** Proposed new routine uses for TVA-15, "LAND BETWEEN THE LAKES® Hunter Records—TVA," and TVA-30, "LAND BETWEEN THE LAKES® Mailing Lists—TVA," and proposed revised routine use for TVA-2, "Personnel Files—TVA."

**SUMMARY:** This publication gives notice, as required by the Privacy Act, of TVA's intention to establish a new routine use for the systems of records entitled TVA-15, "LAND BETWEEN THE LAKES® Hunter Records—TVA," and TVA-30, "LAND BETWEEN THE LAKES® Mailing Lists—TVA," and a revised routine use for the system of records entitled TVA-2, "Personnel Files—TVA." Details of the proposed new and revised routine uses are described below. The full text of TVA-15 appears at 53 FR 10983, April 4, 1988, and 53 FR 43504-43505, October 27, 1988. The full text of TVA-30 appears at 53 FR 10990-10991, April 4, 1988, and 53 FR 43505, October 27, 1988. The full text of TVA-2 appears at 53 FR 10972-10973, April 4, 1988.

**DATES:** Comments must be received by May 7, 1990.

**ADDRESSES:** Comments should be sent to Ronald E. Brewer, Tennessee Valley Authority, Edney Building, 4W 06B, Chattanooga, Tennessee 37402-2801.

**FOR FURTHER INFORMATION CONTACT:** Ronald E. Brewer, 615-751-2520.

**TVA-2**

**SYSTEM NAME:**

Personnel Files—TVA.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Information related to education; qualification; work history; interests and skills; test results; performance evaluation; career counseling; personnel actions; job description; salary and benefit information; service dates, including other Federal and military service; replies to congressional inquiries; medical date; and security investigation data.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd; Executive Order 10577; Executive Order 10450; Executive Order 11478; Executive Order 11222; Veterans' Preference Act of 1944, 58 Stat. 387, as amended; Equal Employment Opportunity Act of 1972, Pub. L. 92-261, 86 Stat. 103; various sections of Title 5 of the United States Code related to employment by TVA.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

To TVA contractors and subcontractors engaged at TVA's direction in studies and evalution of TVA personnel management and benefits; or the investigation of nuclear safety, reprisal, or other matters involving TVA personnel practices or policies; or the implementation of TVA personnel policies.

**TVA-15**

**SYSTEM NAME:**

Land Between the Lakes Hunter Records—TVA.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Personal identifying information, State hunting license(s) number(s), and information related to the hunts.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd; Executive Order 6161.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

To provide mailing lists to nonprofit conservation organizations, having missions related to that of LAND BETWEEN THE LAKES®, for the purpose of soliciting membership in such organizations.

**TVA-30**

**SYSTEM NAME:**

Land Between the Lakes Mailing Lists—TVA.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Personal identifying information, address, and information about their Land Between the Lakes associated interests, activities, or program participation.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd; Executive Order 6161.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

To provide mailing lists to nonprofit conservation organizations, having missions related to that of LAND BETWEEN THE LAKES®, for the

purpose of soliciting memberships in such organizations.

**Louis S. Grande,**

*Vice President, Information Services.*

[FR Doc. 90-7837 Filed 4-4-90; 8:45 am]

BILLING CODE 8120-01-M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

**[CGD 90-018]**

### National Offshore Safety Advisory Committee

**AGENCY:** Coast Guard, DOT.

**ACTION:** Request for application.

**SUMMARY:** The U.S. Coast Guard is seeking applicants for appointment to membership on the National Offshore Safety Advisory Committee (NOSAC). This Committee advises the Secretary of Transportation on rulemaking matters related to the offshore mineral and energy industries. Five (5) members will be appointed for terms commencing in January 1991.

To achieve the balance of membership required by the Federal Advisory Committee Act, the Coast Guard is especially interested in receiving applications from minorities and women. The Committee will meet at least once a year in Washington, DC or another location selected by the Coast Guard.

**DATES:** Requests for applications should be received no later than 1 August 1990.

**ADDRESSES:** Persons interested in applying should write to Commandant (G-MP-2), room 2414, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jo Pensivy, Executive Director, National Offshore Safety Advisory Committee (NOSAC), room 2414, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, (202) 267-1406.

Dated: March 29, 1990.

**M. J. Schiro,**

*Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.*

[FR Doc. 90-7804 Filed 4-4-90; 8:45 am]

BILLING CODE 4910-14-M

**[CGD 90-017]**

### Towing Safety Advisory Committee

**AGENCY:** Coast Guard, DOT.

**ACTION:** Request for applications.

**SUMMARY:** The U.S. Coast Guard is seeking applicants for appointment to membership on the Towing Safety Advisory Committee (TSAC). This committee advises the Secretary of Transportation on rulemaking matters related to shallow-draft inland and coastal waterway navigation and towing safety.

Nine members will be appointed as follows: Four (4) members from the barge and towing industry, reflecting a geographical balance; two (2) members from maritime labor; two (2) members from shippers (of whom at least one shall be engaged in the shipment of oil or hazardous materials by barge); and one (1) member from the mineral and oil supply vessel industry.

To achieve the balance of membership required by the Federal Advisory Committee Act, the Coast Guard is especially interested in receiving applications from minorities and women. The committee will meet at least once a year in Washington, DC or another location selected by the Coast Guard.

**DATES:** Requests for applications should be received no later than June 15, 1990.

**ADDRESSES:** Persons interested in applying should write to Commandant (G-MP-2), room 2414, U.S. Coast Guard Headquaters, 2100 Second Street SW., Washington DC 20593-0001.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jo Pensivy, Executive Director, Towing Safety Advisory Committee (G-MP-2), room 2414, U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, DC 20593-0001, (202) 267-1406.

Dated: March 29, 1990.

**M.J. Schiro,**

*Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.*

[FR Doc. 90-7805 Filed 4-4-90; 8:45 am]

BILLING CODE 4910-14-M

### Office of Hearings

**[Docket 46700]**

### 1990 U.S.-Japan Gateways Proceeding; Hearing

Notice is hereby given that a hearing in the above-titled proceeding is assigned to be held on April 24, 1990, at 10 a.m. (local time), in room 100A, International Trade Commission, 100 E Street SW., Washington, DC, before the undersigned Chief Administrative Law Judge.

For the convenience of the parties, room 100A will be open from 10 a.m. to 5 p.m. on April 23, 1990, to accommodate the transfer of files and documents, which may remain in the room for the duration of the hearing.

**John J. Mathias,**

*Chief Administrative Law Judge.*

[FR Doc. 90-7751 Filed 4-4-90; 8:45 am]

BILLING CODE 4910-62-M

### Federal Highway Administration

### Environmental Impact Statement; Dodge County, MN

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of intent (NOI).

**SUMMARY:** The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway improvement project on TH 14 in Dodge County, Minnesota.

**FOR FURTHER INFORMATION CONTACT:** Alan J. Friesen, District Engineer, Federal Highway Administration, Suite 490 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota 55101, Telephone: (612) 290-3236.

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the Minnesota Department of Transportation, will prepare an Environmental Impact Statement (EIS) on a proposal to reconstruct Trunk Highway 14 (TH 14) to a divided four-lane roadway from the current four-lane near Kasson to the west junction of TH 56 near Dodge Center; a distance of about seven miles.

Improvements to the roadway are considered warranted to enhance safety of travel for existing and projected traffic. Alternatives under consideration include: (1) Taking no action; (2) constructing a four-lane divided roadway utilizing the existing corridor; (3) constructing a four-lane divided roadway using a new location; and (4) constructing a four-lane roadway using a combination of existing and new alignments. Incorporated into the studies of the build alternatives will be design variations of grade and alignment.

Letters describing the proposed action and soliciting comments will be sent to appropriate federal, state and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A formal scoping meeting will be held at a date and place to be determined. Meetings with public officials will be held in Olmsted and Dodge Counties between March 1990 and February 1991. In addition, a public

hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and that all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: March 29, 1990.

**Charles E. Foslien,**

*Division Administrator, FHWA Division Administrator.*

[FR Doc. 90-7839 Filed 4-4-90; 8:45 am]

BILLING CODE 4910-22-M

## Environmental Impact Statement; City of Fort Worth, Tarrant County, TX

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Tarrant County, Texas.

**FOR FURTHER INFORMATION CONTACT:** W.L. Hall, Jr., P.E., District Engineer, Federal Highway Administration, Federal Office Building, Room 826, 300 East Eighth Street, Austin, Texas 78701, Telephone: (512) 482-5988.

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the Texas State Department of Highways and Public Transportation (DHT), intends to prepare an Environmental Impact Statement (EIS) on a proposal to extend State Highway 121 (SH121) on new alignment and right-of-way from Interstate Highway 35W (IH35W) to the north side of Bellaire Drive (which is just north of the interchange of SH121 with Interstate Highway 20 (IH20)) in the City of Forth Worth, Tarrant County, Texas. It will connect with IH30 and the proposed future interchange at Bellaire Drive. This extension of SH121 from Interstate Highway 35W (IH35W) in Tarrant County, Texas to SH174 in Johnson County, Texas.

Previous documentation efforts on the North Section have consisted of an Environmental Assessment (EA) encompassing four alternative alignments for the proposed facility. Companion documentation is being prepared separately for the South Section of the proposed facility, which will include the interchange of SH121 with SH183 and IH20.

The Environmental Impact Statement will assess a variety of alternatives for route selection of the proposed project. The entire project would be on new alignment. It would traverse portions of the City of Fort Worth in Tarrant County. The entire North Section would be designated as a controlled access facility, and would have frontage roads only in those locations where they would be essential to maintain local street circulation and continuity. Four alternative route alignments are being studied for this highway section, in addition to the "no-build" alternative. The longest alternative totals approximately 8.8 miles in length.

The proposed facility will provide a long-needed controlled access highway between the existing Airport Freeway (SH121) just northeast of the Fort Worth Central Business District and the rapidly growing areas of southwest Fort Worth/Tarrant County. The proposed facility would further provide needed access to Dallas-Fort Worth International Airport (DFW) and major growth centers in north Tarrant County. The proposed facility has been an integral part of local and regional transportation plans since the mid-1960's.

In combination with the proposed South Section of SH121 which would connect from north of IH20 to SH174 in Johnson County, Texas, the proposed facility would provide needed access to the Cleburne area in Johnson County, and beyond to the counties south and west of Johnson County.

The Dallas-Fort Worth Consolidated Metropolitan Statistical Area (CMSA), or "Metroplex", with current (1986) estimated population of 3.6 million, is estimated by the North Central Texas Council of Governments (NCTCOG) to increase to 5 million by the year 2010. This represents an increase of 40%. Total Metroplex employment during the period 1986-2010 is projected to increase by 52 percent, from less than 2.2 million to over 3.3 million. M/PF Research, Inc., has projected that the Fort Worth-Arlington (Tarrant County) portion of the Metroplex will have at least a short-term growth rate twice that of the remainder of the Metroplex, including Dallas.

The highway section under study will traverse a major portion of the City of Fort Worth (Inc.) (1980 population 385,164), and in combination with the proposed South Section will connect the Cities of Crowley (Inc.) (1980 population 5,852), Burleson (Inc.) (1980 population 11,734), Joshua (Inc.) (1980 population 1,470), and Cleburne (Inc.) (1980 population 19,218).

Traffic projections for the year 2010 show an Average Daily Total (ADT) traffic demand for the proposed SH121 facility of 130,000 at IH35W, 110,000 at the IH30 interchange, and about 140,500 just north of SH183 and IH20. The North Section of the proposed facility thus will be serving two purposes: (1) To relieve congestion on existing freeway and arterial thoroughfare facilities in the City of Fort Worth and, (2) to provide for a much needed link in the regional freeway network.

The proposed facility will safely and efficiently provide for the transportation needs of the area. It will alleviate congestion and delays and will provide adequate future access to housing, businesses, employment, public health and safety facilities, schools, churches, and other transportation modal facilities. Because in the difficulty in predicting availability of funds, the DHT has not yet decided whether to use State or Federal funds to finance construction of this project.

Coordination with the communities and with public officials has been initiated and will continue. A public meeting was held on May 17, 1988 within the vicinity of the project. A public hearing will follow at a later date. Adequate notice will be given through the news media concerning the time and location of formal public involvement proceedings.

Prior to the onset of construction, the Environmental Impact Statement and records of associated public involvement process will be reviewed by appropriate agencies. Construction of the proposed project is anticipated within the next ten years.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Issued on March 27, 1990.

W.L. Hall, Jr., P.E.,

*District Engineer, Austin, Texas.*

[FR Doc. 90-7840 Filed 4-4-90; 8:45 am]

BILLING CODE 4910-22-M

## Urban Mass Transportation Administration

## Environmental Impact Statement for Transit Improvements in the Baltimore Washington International Airport (BWI) Corridor of Metropolitan Baltimore, MD

**AGENCY:** Urban Mass Transportation Administration, DOT.

**ACTION:** Notice of intent.

**SUMMARY:** The Urban Mass Transportation Administration (UMTA) and the Mass Transit Administration (MTA) of the Maryland Department of Transportation intend to prepare an Environmental Impact Statement (EIS) for alternative transit improvements in the Baltimore Washington International Airport (BWI) corridor of the metropolitan area of Balitmore, Maryland. The UMTA and MTA will prepare EIS in conformance with 40 CFR parts 1500–1508, Council on Environmental Quality, Regulations for Implementing the Procedural Requirements of the National Environmental Policy Act of 1969, and 49 CFR part 622, UMTA, Environmental Impact and Related Procedures. In addition, in conformance with the Urban Mass Transportation Act of 1964 and UMTA policy, the Draft EIS will be prepared in conjunction with an Alternatives Analysis, and the Final EIS in conjunction with Preliminary Engineering.

**DATES:** There will be two scoping meetings on Tuesday, April 24, 1990, at 2:00–4:00 p.m. and 7:00–8:00 p.m., at the BWI Holiday Inn. Written comments may be submitted to the Mass Transit Administration by May 10, 1990. See the **ADDRESSES** section for additional information.

**FOR FURTHER INFORMATION CONTACT:** John T. Garrity, UMTA Region 3, 841 Chestnut Street, Suite 714, Philadelphia, PA 19107. (215) 597–4179.

**ADDRESSES:** Comments may be submitted to Kenneth Goon, Director of Planning, Mass Transit Administration, 300 W. Lexington Street, Baltimore, Maryland 21201–3415. The scoping meetings will be held at the BWI Holiday Inn, 890 Elkridge Landing Road, Baltimore, Maryland 21090.

**SUPPLEMENTARY INFORMATION:**

### Scoping

The UMTA and MTA invite the public and affected Federal, State and local agencies to participate in determining the alternatives to be evaluated in the EIS and identifying the significant issues related to the alternatives. Written materials describing the proposed alternatives, the expected impact areas, a citizen involvement program, and the preliminary work schedule are being mailed to affected Federal, State and local agencies and to interested parties on record. Others may request these scoping materials by calling or writing to Kenneth Goon, Director of Planning, Mass Transit Administration, 300 W. Lexington Street, Baltimore, Maryland 21201–3415; Telephone (301) 333–3366.

Two scoping meetings are set for Tuesday, April 24, 1990 at 2:00–4:00 p.m. and 7:00–8:30 p.m. at the BWI Holiday Inn, 890 Elkridge Landing Road. Verbal comments may be made at this meeting, and MTA staff will be available for questions. Written comments from the public and affected agencies on the scope of the EIS may be sent to Mr. Goon by May 10, 1990. Opportunity for additional public comment will be provided during the study. If you would like to be placed on the mailing list to receive further information on this project and notices of public meetings and hearings, please contact Mr. Goon at the above address.

### Corridor Description

The BWI is bounded by the Patapsco River on the north, MD Route 3 and MD Route 648 on the east, proposed MD Route 100 to the south and the Howard County line on the west. The east side of the study area is predominantly single family residential. This area includes the neighborhoods of Linthicum, Shipley, Pumphrey, Belle Grove, Linthicum Oaks, greater Ferndale, and North Linthicum. The northern part of the study area is industrial and residential and includes the Maritime Marine Training Institute. The western portion of the study area is the Airport Square Technology Park, which is occupied predominantly by members of the defense industry, including the National Security Agency (NSA) and Westinghouse. This development currently occupies over 2.8 million square feet of office space and is still under construction. The Nursery Road Corridor is experiencing further growth with concentrations of office and hotel uses. The southern part of the study area is the BWI Airport. The Amtrak station is located northwest of the airport.

Independent of UMTA, the MTA is constructing the Central Light Rail Line (CLRL) from Metro Center in downtown Baltimore south to Dorsey Road in Anne Arundel County, and north to Timonium in Baltimore County. The U.S. Army Corpos of Engineers is preparing an environmental impact assessment of the impacts on wetlands and navigable waterways of this related but independent project. The EIS to be prepared by MTA and UMTA will evaluate transit alternatives off of the CLRL mainline to serve the BWI area.

### Alternatives

Transportation alternatives proposed for consideration in the BWI corridor include: (1) The No-Build option, under which the existing and committee bus and rail systems (including the CLRL out to Dorsey Road and it accompanying feeder bus system) would continue to operate, and committed roadway improvements, such as I–195 providing access into the airport, are assumed to be implemented; (2) A Transportation Systems Management (TSM) alternative which expands the bus feeder and distribution systems. TSM improvements include an extended shuttle bus system connecting the major employment concentrations around BWI Airport with the Central Light Rail Line on the B&A alignment.

The alternatives to be considered also include six light rail alignments which extend off of the CLRL mainline and serve the BWI area.

(3) From the CLRL mainline at Linthicum, the Alternative 3 alignment follows the Washington Baltimore & Annapolis (WB&A) abandoned railroad bed to Fort Meade Road (MD Route 170) and turns west on the utility right-of-way (Stoney Run Road). At the intersection of MD Route 170 and Elm Road, the alignment follows Elm Road into the BWI Airport terminal.

(4) From the CLRL mainline at Linthicum, the Alternative 4 alignment follows the Washington Baltimore and Annapolis (WB&A) abandoned railroad bed to Fort Meade Road (MD Route 170) and turns west on the utility right-of-way (Stoney Run Road). The alignment continues west along the north side of MD Route 170, under MD Route 46 (proposed I–195) in a tunnel structure, past the Westinghouse complex, terminating at the BWI/Amtrak train station.

(5) From the CLRL mainline at Linthicum, the Alternative 5 alignment follows the WB&A abandoned railroad bed to Fort Meade Road (MD Route 170) and turns west on the utility right-of-way (Stoney Run Road). At the intersection of MD Route 170 and Elm Road, the alignment follows Elm Road

into the BWI terminal or has the option of continuing west on MD Route 170. The spur option continues along MD Route 170 under MD Route 46 (proposed I–195) via a tunnel, past the Westinghouse parking area, and on to the BWI Amtrak terminus.

(6) From the CLRL mainline at Linthicum, the Alternative 6 alignment follows the WB&A abandonded railroad bed to Fort Meade Road (MD Route 170) and turns west on the utility right-of-way (Stoney Run Road). At the intersection of MD Route 170 and Elm Road, the alignment follows Elm Road into the BWI terminal. Continuing parallel to the BWI Airport/Elm Road, the alignment follows MD Route 46 (proposed I–195), to MD Route 170, Westinghouse, and a terminus at the BWI Amtrak station via the Amtrak access road and Westinghouse employee parking area.

(7) From the CLRL mainline at I–695, the Alternative 7 alignment follows I–695 and the BW Parkway to Nursery Road and turns southeast along Elkridge Landing Road, following Elm Road into the BWI Airport terminal.

(8) From the CLRL mainline at I–695, the Altenrative 8 alignment follows I–695 and the BW Parkway to Nursery Road until it reaches a tributary to Stoney Run near Science Drive. It crosses over MD Route 46 (proposed I–695) on structure, then travels in a counter clockwise alignment by the Amtrak station and south along the Amtrak entrance road onto the Westinghouse parking area. The alignment then travels east under MD Route 46 and parallels MD Route 170. It then turns south along Elm Road into the BWI Airport terminal.

In addition, the following automated guideway alternative is being considered:

(9) Using people mover, automated guideway technology, the Alternative 9 alignment start at the CLRL mainline at Linthicum and follows the abandoned WB&A Railroad bed in an exclusive right-of-way (i.e., not grade crossing) to Fort Meade Road (MD Route 170). At the intersection of MD Route 170 and Elm Road, the alignment follows Elm Road into the BWI Airport terminal.

During scoping, comments on the alternatives should focus on the appropriateness of these and other options for consideration in the study, not on preference for a particular alternative.

**Probable Effects**

The UMTA and MTA propose to evaluate in the EIS all significant social, economic and environmental impacts of the alternatives under consideration. The impacts analyzed will include: noise; residential and business displacements; changes in development patterns and land use; community disruption due to traffic, noise, displacements and parking changes; safety considerations; effects on parks and historic sites; degradation of the air quality and water quality especially near stations and impacts on wetlands and floodplains, ecologically sensitive areas, hazardous waste sites, and the aesthetic quality of the area. These impacts will be evaluated both for the construction period of and for the long-term operation of each alternative. Measures to mitigate identified effects will be explored.

Construction of any alternative other than the No-Build will require increased capital outlays for several years. The TSM, light rail, and automated guideway alternatives are expected to increase transit service and patronage with associated increases in operating and maintenance costs. The alternatives are expected to have no significant impact on navigable waterways and coastal zones.

During scoping, comments on the probable effects should focus on the completeness of the proposed set of impacts to be evaluated. Other impacts or criteria judged relevant to decision-making should be identified.

Dated: March 28, 1990.

**Peter N. Stowell,**

*Southeastern Area Director.*

[FR Doc. 90–7858 Filed 4–4–90; 8:45 am]

BILLING CODE 4910–57–M

## DEPARTMENT OF THE TREASURY

### Office of the Secretary

**[Supplement to Department Circular—Public Debt Series—No. 8–90]**

### Treasury Notes, Series X–1992

Washington, March 28, 1990.

The Secretary announced on March 27, 1990, that the interest rate on the notes designated Series X–1992, described in Department Circular—Public Debt Series—No. 8–90 dated March 22, 1990, will be 8½ percent. Interest on the notes will be payable at the rate of 8½ percent per annum.

**Gerald Murphy,**

*Fiscal Assistant Secretary.*

[FR Doc. 90–7815 filed 4–4–90; 8:45 am]

BILLING CODE 4810–40–M

**[Supplement to Department Circular—Public Debt Series—No. 9–90]**

### Treasury Notes, Series M–1994

Washington, March 29, 1990.

The Secretary announced on March 28, 1990, that the interest rate on the notes designated Series M–1994, described in Department Circular—Public Debt Series—No. 9–90 dated March 22, 1990, will be 8½ percent. Interest on the notes will be payable at the rate of 8½ percent per annum.

**Gerald Murphy,**

*Fiscal Assistant Secretary.*

[FR Doc. 90–7816 Filed 4–4–90; 8:45 am]

BILLING CODE 4810–40–M

## UNITED STATES INFORMATION AGENCY

### Advisory Board for Cuba Broadcasting; Meeting

The Advisory Board for Cuba Broadcasting will conduct a meeting on April 10, 1990, in room 3557, 400 Sixth Street SW., Washington, DC. Below is the intended agenda.

Tuesday, April 10, 1990

Part One—Closed to the Public

10:30 a.m. 1. Radio Martí Status Report

11:15 a.m. 2. TV Martí Status Report

Part Two—Open to the Public

12:00 p.m. 3. Radio Martí Discussion

12:15 p.m. 4. TV Martí Discussion

12:30 p.m. 5. Public testimony period

Items one and two, which will be discussed from 10:30 a.m. to 12 p.m., will be closed to the public. Items one and two involve discussion of classified information. Closing such deliberations to the public is justified under 5 U.S.C. 552b(c)(1). Information discussed in items one and two also relates "solely to the internal personnel rules and practices of an agency" as defined by 5 U.S.C. 552b(c)(2), and this is an acceptable reason for closing such discussions to the public.

Members of the public interested in attending the meeting should contact James Skinner at (202) 485–6312 to make prior arrangements, as access to the building is controlled.

Dated: March 29, 1990.

**Bruce S. Gelb,**

*Director.*

**Determination To Close Portions of Advisory Board Meeting of April 10, 1990**

Based on information provided to me by the Advisory Board for Cuba Broadcasting, I hereby determine that the 10:30 a.m. to 12

p.m. portion of the meeting may be closed to the public.

The Advisory Board has requested that this part of the April 10, 1990 meeting be closed because it will involve a discussion of classified information (5 U.S.C. 552b(c)(1)) and of matters which relate solely to the internal personnel rules and practices of an agency (5 U.S.C. 552b(c)(2)).

Dated: March 29, 1990.

[FR Doc. 90-7802 Filed 4-4-90; 8:45 am]

BILLING CODE 8230-01-M

## DEPARTMENT OF VETERANS AFFAIRS

### Information Collection Under OMB Review

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96-511 applies.

**ADDRESSES:** Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (203C), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 (202) 233-2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395-7316. Please do not send applications for benefits to the above addressees.

**DATES:** Comments on the information collection should be directed to the OMB Desk Officer within 30 days of this notice.

Dated: March 26, 1990.

By direction of the Secretary.

**Frank E. Lalley,**

*Acting Director, Office of Information Resources Policies.*

**Extension**

1. Veterans Benefits Administration.
2. VA Property Management Consolidated Invoice.
3. VA Form 26-8974.
4. This form is completed by property management brokers and identifies brokers bills for reimbursement of expenses and payment of fees incurred with the management of VA acquired properties.
5. On occasion—Monthly.
6. Businesses or other for-profit—Small businesses or organizations.
7. 2,300 responses.
8. ⅔ hour.
9. Not applicable.

[FR Doc. 90-7756 Filed 4-4-90; 8:45 am]

BILLING CODE 8320-01-M

# Sunshine Act Meetings

Federal Register
Vol. 55, No. 66
Thursday, April 5, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

**COMMODITY FUTURES TRADING COMMISSION**

**TIME AND DATE:** 10 a.m., Tuesday, April 17, 1990.

**PLACE:** 2033 K Street NW., Washington, DC, 8th Floor Hearing Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

Enforcement Matters.

**CONTACT PERSON FOR MORE INFORMATION:** Jean A. Webb, 254–6314.

Jean A. Webb,

*Secretary of the Commission.*

[FR Doc. 90–8050 Filed 4–3–90; 3:00 pm]

BILLING CODE 6351–01–M

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**COMMODITY FUTURES TRADING COMMISSION**

**TIME AND DATE:** 10 a.m., Tuesday, April 24, 1990.

**PLACE:** 2033 K Street NW., Washington, DC, 8th Floor Hearing Room.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

Interpretation on Automated Transaction Related Systems

**CONTACT PERSON FOR MORE INFORMATION:** Jean A. Webb, 254–6314.

Jean A. Webb,

*Secretary of the Commission.*

[FR Doc. 90–8051 Filed 4–3–90; 3:00 pm]

BILLING CODE 6351–01–M

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**COMMODITY FUTURES TRADING COMMISSION**

**TIME AND DATE:** 10:30 a.m., Tuesday, April 24, 1990.

**PLACE:** 2033 K Street NW., Washington, DC, 8th Floor Hearing Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

Financial rule enforcement review
Enforcement Matters

**CONTACT PERSON FOR MORE INFORMATION:** Jean A. Webb, 254–6314.

Jean A. Webb,

*Secretary of the Commission.*

[FR Doc. 90–8052 Filed 4–3–90; 3:00 pm]

BILLING CODE 6351–01–M

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**FEDERAL ELECTION COMMISSION**

**"FEDERAL REGISTER" NUMBER** 90–7382.

**PREVIOUSLY ANNOUNCED DATE AND TIME:** Thursday, April 5, 1990, 10:00 a.m.

**THE FOLLOWING ITEM WAS ADDED TO THE AGENDA:**

Final Repayment Determination—1988 Democratic National Convention Committee, Inc.

**DATE AND TIME:** Tuesday, April 10, 1990, 10:00 a.m.

**PLACE:** 999 E Street N.W., 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, April 12, 1990, 10:00 a.m.

**PLACE:** 999 E Street N.W., Washington, D.C. (Ninth Floor).

**STATUS:** This meeting will be open to the public.

**MATTERS TO BE CONSIDERED:**

Correction and Approval of Minutes
Draft Advisory Opinion 1990–5: Ms. Margaret Mueller
Revised Draft Allocation Regulations
Status of Presidential Audits
Administrative Matters

**PERSON TO CONTACT FOR INFORMATION:** Mr. Fred Eiland, Press Officer, Telephone: (202) 376–3155.

Marjorie W. Emmons,

*Secretary of the Commission.*

[FR Doc. 90–8057 Filed 4–3–90; 3:31 pm]

BILLING CODE 6715–01–M

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**FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS**

**TIME AND DATE:** 10:00 a.m., Wednesday, April 11, 1990.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets N.W., Washington, D.C. 20551.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m., two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: April 13, 1990

Jennifer J. Johnson,

*Associate Secretary of the Board.*

[FR Doc. 90–8056 Filed 4–3–90; 3:19 pm]

BILLING CODE 6210–01–M

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**NATIONAL TRANSPORTATION SAFETY BOARD**

**TIME AND DATE:** 9:30 a.m. Tuesday, April 10, 1990.

**PLACE:** Conference Room 8A, B, C, Eighth Floor, 800 Independence Avenue S.W., Washington, D.C. 20594.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

1. Aviation Accident Report: United Airlines B–747, Flight 811, Honolulu, Hawaii, February 24, 1989.

News Media PLEASE Contact MELBA MOYE (202) 382–6600.

**FOR MORE INFORMATION CONTACT:** Bea Hardesty, (202) 382–6525.

Dated: March 30, 1990.

Bea Hardesty,

*Federal Register Liaison Officer.*

[FR Doc. 90–8009 Filed 4–3–90; 12:26 pm]

BILLING CODE 7533–01–M

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**RESOLUTION TRUST CORPORATION**

Notice of Changes in Time of an Agency Meeting and Subject Matter of Agency Notice

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the time for the open session of the Tuesday, April 3, 1990 meeting of the Resolution Trust Corporation Board of Directors is changed to 2:30 p.m.

Corporation business requires the addition to the "Discussion Agenda" for consideration at the open session of the following:

Memorandum and resolution re: Regulation implementing 12 U.S.C. § 1823(k) relating to the override of state laws.

The changes were required with less than seven days notice to the public and no earlier notice was practicable.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. John M. Buckley, Jr., Executive Secretary of the Corporation, at (202) 898–7102.

Dated: March 30, 1990.

Resolution Trust Corporation.

**John M. Buckley, Jr.,**

*Executive Secretary.*

[FR Doc. 90–7938 Filed 4–2–90; 4:37 pm]

BILLING CODE 6714-01-M

# Corrections

Federal Register
Vol. 55, No. 66
Thursday, April 5, 1990

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

### National Institute of Standards and Technology

[Docket No. 90365-0005]

RIN 0693-AA49

### Approval of Federal Information Processing Standards Publication 151-1, POSIX; Portable Operating System Interface for Computer Environments

*Correction*

In notice document 90-7055 beginning on page 11424 in the issue of March 28, 1990, make the following corrections:

1. On page 11425, in the first column, under "*Related Documents.*", in paragraph b., in the second line "88-02" should read "88-002".

2. On the same page, in the same column, under "*Applicability.*", in paragraph c., "Engineering" was misspelled.

3. On the same page, in the same column, under "*Specifications.*", in the 6th line from the bottom "std" should read "Std".

4. On the same page, in the second column, in paragraph a., in the first and eighth lines, "CLK TCK" should read "CLK_TCK".

5. On the same page, in the same column, in paragraph b., the second line should read "the option {_POSIX_CHOWN_".

6. On the same page, in the same column, in paragraph c., in the second and third lines, "(NGROUPS MAX)" should read "{NGROUPS_MAX}".

7. On the same page, in the same column, in paragraph e. the third line should read "feature {_POSIX_NO_TRUNC}".

8. On the same page, in the same column, in paragraph f. the third line should read "feature {_POSIX_VDISABLE}".

9. On the same page, in the same column, in paragraph g. the second line should read "the option {_POSIX_JOB_CONTROL}".

10. On the same page, in the same column, in paragraph h. the third line should read "feature {_POSIX_NO_TRUNC}".

11. On the same page, in the same column, under "*Implementation.*" the first sentence should read "This standard is effective September 28, 1990.".

12. On page 11426, in the first paragraph, in the fifth line "be" should read "by".

13. On the same page, in the same column, in the second complete paragraph, in the sixth line "solicitation" was misspelled.

14. On the same page, in the second column, under "*Terminal Interface Extensions*", in paragraph (1), in the third line, remove "graphics".

15. On page 11427, in the table, both "Element" "ODA/ODIF" and "Specification " "ISO/IS 8613." should be raised immediately underneath "Element" "SGML" and "Specification" "FIPS 152." , respectively.

16. On the same page, in the second column, in the fourth complete paragraph, in the third line "implementator" was misspelled.

BILLING CODE 1505-01-D

## DEPARTMENT OF LABOR

### Employment Standards Administration; Wage and Hour Division

### 29 CFR Part 510

### Implementation of the Minimum Wage Provisions of the Fair Labor Standards Amendments of 1989 in Puerto Rico

*Correction*

In rule document 90-6934 beginning on page 12114 in the issue of Friday, March 30, 1990, make the following corrections:

1. On page 12115, in the 3rd column, under *Confidentiality of Data*, in the 4th line, "classification" should read "classifications" and in the 31st line, after "digit" add "SIC code which includes their industry, or the two digit".

2. On page 12119, in the 2nd column, in the first line, "**PART 615-[REMOVED]**" should read "**PART 617-[REMOVED]**".

3. On page 12121, in the 1st column, in the table of contents, in **APPENDICES A, B, C, AND D**, "Phasein" should read "Phase-in".

**§ 510.21 [Corrected]**

4. On page 12122, in the 2nd column, in § 510.21(a), in the second line, "annual" was misspelled.

**§ 510.22 [Corrected]**

5. On the same page, in the 3rd column, in § 510.22(a), in the first line, "listing" was misspelled.

**§ 510.24 [Corrected]**

6. On page 12123, in § 510.24(d), in the 2nd column, in the 10th line, add "that" after "than".

7. On page 12124, in the table "Manufacturing Industries", under the heading "Industry number", "21121" should read "2121".

8. On page 12125, in the same table, under the heading "Industry number", "22251" should read "2251".

9. On page 12126, in the same table, under the heading "Tier", in the 13th, 16th, and 17th lines "1" should read "a".

10. On page 12131, in the table "Nonmanufacturing Industries" under the heading "Industry", the 18th line should read "Miscellaneous services incidental to transportation."

BILLING CODE 1505-01-D

## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

[Inconsistency Ruling No. IR-30; Docket IRA-47]

### City of Oakland, CA; Nuclear Free Zone Act

*Correction*

In notice document 90-5829 beginning on page 9676 in the issue of Wednesday, March 14, 1990, make the following corrections:

1. On page 9677, in the first column, in the first complete paragraph, in the second line, "pursuant" was misspelled.

2. On page 9680, in the third column, in the first complete paragraph, in the sixth line, "for" should read "of".

BILLING CODE 1505-01-D

federal register

Thursday
April 5, 1990

Part II

# Department of Education

**Pell Grant Program; Student Aid Index Charts; Notice**

## DEPARTMENT OF EDUCATION

### Pell Grant Program; Student Aid Index Charts

**AGENCY:** Department of Education.

**ACTION:** Publication of the 1989–90 award year zero student aid index (SAI) charts.

**SUMMARY:** The Secretary publishes the Zero Student Aid Index (SAI) Charts for institutions to use when verifying application information under the Pell Grant Program. The use of the Zero SAI Charts is authorized by § 668.59(a)(2) of the Student Assistance General Provisions regulations.

**SUPPLEMENTARY INFORMATION:** The Pell Grant Program provides grant assistance to financially needy students to help them meet the cost of postsecondary education. In order to receive a Pell Grant, a student must submit an application to the Secretary that contains both financial and non-financial information which permits the Secretary to determine the student's expected family contribution (EFC). The EFC is an amount which the student and his or her family may reasonably be expected to contribute toward the student's cost of a postsecondary education. The EFC is called the Student Aid Index, or SAI, in the Pell Grant Program.

The Secretary notifies the student of his or her SAI on a document called a Student Aid Report (SAR). On the SAR, the Secretary also includes the information reported by the applicant on the application. The Secretary uses some of this information to calculate the student's SAI.

In order to assure that applicants for Pel Grants provide accurate information on their applications, the Secretary may require some applicants to verify and update the information submitted on the applications. The regulations governing this verification process are in the Student Assistance General Provisions regulations, 34 CFR part 668, subpart E. Generally, under these regulations, if an applicant is required to change any of the information on his or her application, the applicant must make the changes on the SAR that he or she received and must resubmit that revised SAR to the Secretary.

However, there are some circumstances where the changed application information will not change the student's SAI, and, under those circumstances, the Secretary does not require the applicant to resubmit the SAR. Under § 668.59(a)(2) of the Student Assistance General Provisions regulations, the Secretary does not require an applicant to resubmit the changed SAR to the Secretary if the applicant has an SAI of zero and the institution that the applicant is attending can determine that the applicant's SAI will remain at zero using verified information and the Zero SAI Charts.

The Zero SAI Charts are a simplified version of the formula the Secretary uses in calculating an applicant's SAI. The charts may be used only if:

- The applicant's dependency status does not change, and
- The applicant's (spouse's) income and assets and the parental income and assets of a dependent student do not exceed specified amounts.

An institution may use the Zero SAI Charts to calculate a Pell Grant applicant's SAI if the following criteria are satisfied. (These criteria are based upon sections 411A through 411F of the Higher Education Act of 1965, as amended (HEA).)

*For students qualified to use the simplified needs test:*

1. The effective income of a single dependent student is less than $3,601 in calendar year 1988.

2. The effective income of a married dependent student and spouse is less than $5,301 in calendar year 1988.

3. The annual adjusted family income of an unmarried independent student without dependent children is less than $5,501 in calendar year 1988.

4. The annual adjusted family income of a married independent student without dependents is less than $6,901 in calendar year 1988, if the student does not qualify to use the full employment expense offset (EEO), or the annual adjusted family income is less than $8,401 if the student is qualified to use the full EEO.

5. The annual adjusted family income of an unmarried independent student with one dependent is less than $8,401 in calendar year 1988.

*For dependent students [1] using the regular needs test:*

1. The effective income of a single dependent student is less than $3,601.

2. The effective income of a married dependent student is less than $5,301.

3. Dependent student and spouse net assets equal zero.[2]

4. Net home assets of parents are less than $30,001.[2]

5. Net business assets (exclusive of farm assets) of parents are less than $80,001.

6. Net farm (or a combination of net farm and net business assets) of parents are less than $100,001.

7. Net parental assets, other than home, farm, or business assets are less than $25,001.

8. Combined net parental business, home, and other assets (exclusive of farm assets) are less than $110,001.[2]

9. Combined net parental farm, business, home, and other assets are less than $130,001.[2]

*For independent students [3] using regular needs test:*

1. The annual adjusted family income of an unmarried independent student without dependent children is less than $5,501.

2. The annual adjusted family income of a married independent student without dependents is less than $6,901, if the student is not qualified to use the full EEO or income is less than $8,401 if the student is qualified to use the full EEO.

3. The annual adjusted family income of an unmarried independent student with one dependent is less than $8,401.

4. The assets of an unmarried independent student without dependent children are equal to zero.[4]

5. Net home assets of an unmarried independent student with a dependent, or a married independent student without dependents, or a married independent student with dependents other than the spouse are less than $30,001.[4]

6. Net business assets (exclusive of farm assets) are less than $80,001.

7. Net farm assets (or a combination of net farm and net business assets) are less than $100,001.

8. The net value of assets, other than home, farm, or business assets is less than $25,001.

9. Combined net business, home, and other assets (exclusive of farm assets) are less than $110,001.[4]

10. Combined net farm, business, home, and other assets are less than $130,001.[4]

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[1] If a student, the student's spouse or parent(s) is a dislocated worker as defined in Title III of the Job Training Partnership Act, use calendar year 1989 expected year income. For all others use income received during calendar year 1988.

[2] If a student, student's spouse or parent is a dislocated worker as defined in Title III of the Job Training Partnership Act, or displaced homemaker as defined in section 480(e) of the HEA, the net asset value of a principal residence shall be considered zero.

[3] If a student or the student's spouse is a dislocated worker as defined in Title III of the Job Partnership Training Act, use calendar year 1989 expected income. For all other students, use income received in calendar year 1988.

[4] If a student or the student's spouse is a dislocated worker as defined in Title III of the Job Training Partnership Act, or a displaced homemaker as defined in section 480(e) of the HEA, the net asset value of a principal residence shall be considered zero.

### Zero SAI—Chart A

Use if applicant is eligible for full employment expense offset (EEO) [5]

An Applicant's SAI is zero if:

| The correct household size is | And the verified effective family income (EFI) is less than |
|---|---|
| 2 | 8,401 |
| 3 | 9,901 |
| 4 | 12,301 |
| 5 | 14,301 |
| 6 | 15,601 |
| 7 | 14,601 |
| 8 | 19,401 |
| 9 | 21,201 |
| 10 | 23,001 |
| 11 | 24,801 |
| 12 | 26,601 |
| 13 | 28,401 |
| 14 | 30,201 |

### Zero SAI—Chart B

Use if applicant is not eligible for full employment expense offset (EEO).[6]

An applicant's SAI is zero if:

| The correct household size is | And the verified effective family income (EFI) is less than |
|---|---|
| 1 | $5,501 |
| 2 | 6,901 |
| 3 | 8,401 |
| 4 | 10,801 |
| 5 | 12,801 |
| 6 | 14,301 |
| 7 | 16,101 |
| 8 | 17,901 |
| 9 | 19,701 |
| 10 | 21,501 |
| 11 | 23,301 |
| 12 | 25,101 |
| 13 | 26,901 |
| 14 | 28,701 |

[6] Use this chart if you cannot use Chart A.

### Effective Family Income (EFI)

Effective family income equals total income minus the sum of (1) Federal income taxes paid or payable, (2) the tax allowance calculated under the Tax Allowance Percentage Table included in this Notice, and (3) excludable income, as defined below.

Total income equals the adjusted gross income (determined for tax filers from the U.S. income tax return or income earned from work not reported on a U.S. income tax return in the case of non-tax filers), the total untaxed income and benefits of the student's parents for a dependent student, or of the student and spouse for an independent student, and one-half of the student's Veterans Administration (VA) educational benefits (under chapters 34 and 35 of title 38 of the United States Code).

### Excludable Income

- Excludable income includes:
- For a Native American student, individual payments of $2000 or less received by the student (and spouse and the student's parents) under the Per Capita or Distribution of Judgement Funds Act, or any income received under the Alaska Native Claims Settlement Act or the Maine Indian Claims Settlement Act.
- Income of a divorced or separated spouse of a student, or of a student's spouse who has died.
- Student financial assistance, except certain veterans' or Social Security benefits.
- Unemployment compensation received by a dislocated worker in accordance with Title III of the Job Training Partnership Act.
- Income or capital gains from the sale of a farm or business assets of the family, if the sale resulted from a voluntary or involuntary foreclosure, forfeiture, bankruptcy or involuntary liquidation.

TAX ALLOWANCE PERCENTAGE TABLE

| If state, or territory of residence is | And total income is less than $15,000 | or $15,000 or more |
|---|---|---|
| | then the percentage is | |
| Alabama | .07 | .06 |
| Alaska | .03 | .02 |
| American Samoa | .04 | .03 |
| Arizona | .07 | .06 |
| Arkansas | .07 | .06 |
| California | .09 | .08 |
| Canada | .09 | .08 |
| Colorado | .08 | .07 |
| Connecticut | .08 | .07 |
| Delaware | .09 | .08 |
| District of Columbia | .11 | .10 |
| Federated States of Micronesia | .04 | .03 |
| Florida | .05 | .04 |
| Georgia | .08 | .07 |
| Guam | .04 | .03 |
| Hawaii | .11 | .10 |
| Idaho | .09 | .08 |
| Illinois | .08 | .07 |
| Indiana | .07 | .06 |
| Iowa | .09 | .08 |
| Kansas | .08 | .07 |
| Kentucky | .08 | .07 |
| Louisiana | .04 | .03 |
| Maine | .10 | .09 |
| Marshall Islands | .04 | .03 |
| Maryland | .11 | .10 |
| Massachusetts | .11 | .10 |
| Mexico | .09 | .08 |
| Michigan | .12 | .11 |
| Minnesota | .12 | .11 |
| Mississippi | .07 | .06 |
| Missouri | .07 | .06 |
| Montana | .07 | .06 |
| Nebraska | .09 | .08 |
| Nevada | .04 | .03 |
| New Hampshire | .07 | .06 |
| New Jersey | .10 | .09 |
| New Mexico | .05 | .04 |
| New York | .14 | .13 |
| North Carolina | .09 | .08 |
| North Dakota | .06 | .05 |
| Northern Mariana Islands | .04 | .03 |
| Ohio | .09 | .08 |
| Oklahoma | .07 | .06 |
| Oregon | .11 | .10 |
| Pennsylvania | .09 | .08 |
| Puerto Rico | .03 | .02 |
| Rhode Island | .11 | .10 |
| South Carolina | .09 | .08 |
| South Dakota | .05 | .04 |
| Tennessee | .05 | .04 |
| Texas | .04 | .03 |
| Utah | .09 | .08 |
| Vermont | .09 | .08 |
| Virgin Islands | .04 | .03 |
| Virginia | .09 | .08 |
| Washington | .06 | .05 |
| West Virginia | .07 | .06 |
| Wisconsin | .13 | .12 |
| Wyoming | .03 | .02 |
| Trust Terriory of the Pacific Islands (Palau) | .04 | .03 |
| Blank or Invalid State | .09 | .08 |

Sections 411B, 411C and 411D of the HEA.

**FOR FURTHER INFORMATION CONTACT:** Paula Husselmann, Chief, or Joseph Vettickal, Program Analyst, Verification Development Section, Student Verification Branch, Division of Policy and Program Development, Office of Student Financial Assistance, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue SW., ROB–3, Room 4613, Washington, DC 20202. Telephone: (202) 732–5579.

(20 U.S.C. 1094)

(Catalog of Federal Domestic Assistance No. 84.063 Pell Grant Program)

Dated: March 30, 1990.

**Leonard L. Haynes, III,**

*Assistant Secretary for Postsecondary Education.*

[FR Doc. 90–7763 Filed 4–4–90; 8:45 am]

BILLING CODE 4000–01–M

[5] Use chart A if—

For a dependent student:

(1) The parents of the student are married and both parents earned income of $3,000 or more; or

(2) The parent of the student qualified as a head of household for Federal income tax purposes and the parent earned income of $3,000 or more.

For an independent student with dependents:

(1) Both the student and the spouse earned income of $3,000 or more; or

(2) The student qualified as a head of household for Federal income tax purposes and the student earned income of $3,000 or more.

Federal Register

Thursday
April 5, 1990

Part III

# Department of Education

34 CFR Part 690

Pell Grant Program; Calculation of Family Contributions; Final Regulations

## DEPARTMENT OF EDUCATION

### 34 CFR Part 690

### Pell Grant Program; Calculation of Family Contributions

**AGENCY:** Department of Education.

**ACTION:** Final regulations.

**SUMMARY:** The Secretary amends the Pell Grant Program Regulations and prescribes those special conditions under which a special calculation of a student's expected family contribution is to be made for the 1990–91 award year.

**EFFECTIVE DATE:** These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. A document announcing the effective date of these regulations will be published in the **Federal Register**. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

**FOR FURTHER INFORMATION CONTACT:** Cheryl Leibovitz, U.S. Department of Education, 400 Maryland Avenue, SW. (Regional Office Building 3, Room 4318), Washington, DC 20202–5444. Telephone (202) 732–4888.

**SUPPLEMENTARY INFORMATION:** The Departments of Education, Labor, Health and Human Services, and Related Agencies Appropriations Act, 1990 (Pub. L. 101–166), and the Department of Transportation and Related Agencies Appropriations Act, 1990 (Pub. L. 101–164), both signed by President Bush on November 21, 1989, make changes to the determination of a student's expected family contribution (EFC) under the Pell Grant Program for the 1990–91 award year. (The EFC is also called the Pell Grant Index (PGI), formerly known as the Student Aid Index (SAI).) The two above-mentioned appropriations acts rescinded a financial aid administrator's (FAA) authority under section 479A of the Higher Education Act of 1965, as amended (HEA), to make individual adjustments, based on adequate documentation, to a student's EFC under the Pell Grant Program. This rescission applies only to the Pell Grant Program and is effective only for the 1990–91 award year. The FAA's authority to make adjustments to a student's EFC in the other programs authorized by title IV of the HEA (title IV, HEA programs) remains unchanged. Also, an FAA's authority to make a determination that a student is independent by reason of documented unusual circumstances under section 411F(12)(B)(vii) of the HEA for the Pell Grant Program remains unchanged. The other title IV, HEA programs have this authority under section 480(d)(3) of the HEA.

The new legislation provides that in those instances where special conditions exist (as determined by the Secretary), the student's PGI for the Pell Grant Program shall be based upon expected year income instead of base year income. That is, any student whose family circumstances meet a special condition criterion shall have his or her PGI calculated using the expected income for the 1990 calendar year instead of by the standard procedure of using the base year income for the 1989 calendar year. This use of expected year income in the Pell Grant formula for the 1990–91 award year is identical to the use of expected year income in the Pell Grant formula for the 1989–90 award year.

The purpose of these regulations is to provide a list of the special conditions under which a computation of a student's PGI, using expected year data, would be performed. The special conditions are the same as those used in the Pell Grant Program in the 1989–90 award year.

In award years prior to 1988–89, if a student qualified for a special calculation because of a special condition (previously referred to as an "extraordinary circumstance") the student completed and filed a supplemental application called a "special conditions form." As in the 1989–90 award year, because the statute was amended to require special condition calculations for the 1990–91 award year so close to the beginning of the 1990–91 processing year, the Department is unable to provide a Special Conditions Form.

To ensure that students know that they may be eligible to have their awards calculated on the basis of special conditions, a message is printed on each Student Aid Report (SAR) indicating that a student who believes that he or she qualifies for a special condition calculation should contact his or her FAA. In order to receive a special calculation, students meeting a special condition criterion must provide the data needed for the special calculation on either the Correction Application for Federal Student Assistance (Correction AFSA) or the SAR. In either case the student must forward the document to the processor indicated on the form at which time a computation based on the expected year data will be made a new SAR generated.

As in prior award years, a student's eligibility for the simplified needs test is determined using base year information. If a student qualifies for the simplified needs test and also qualifies for a special condition calculation, that special condition calculation is made using expected year information.

#### Waiver of Notice of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)), and the Administrative Procedure Act, 5 U.S.C. 553, it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, under the Department of Transportation and Related Agencies Appropriations Act, 1990 (Public Law 101–164) the Secretary is required to apply regulatory criteria governing special condition calculations for the 1990–91 award year. The processing cycle for the 1990–91 award year began in January 1990. If the Secretary were to delay implementation of these regulations, the Secretary would be prevented from the due and required execution of this law. Moreover, it would be contrary to the public interest to follow these rulemaking procedures because in the absence of immediate implementation of these regulations, needy students would be prevented from obtaining the full amount of Pell Grant assistance for which they are eligible under the special conditions prescribed by the Secretary. The public is also unlikely to object to these regulations because they contain special conditions that are virtually identical to those contained in the regulations that were in effect for the 1987–88 award year and were the product of notice and comment rulemaking. In addition, these regulations are virtually identical to those used in the 1989–90 award years and no comments were received regarding those regulations.

Since the regulations are effective for the current award cycle only, the delay occasioned by taking public comment would result in the nonapplication of the Appropriations Act provisions to many of the students to whom it was intended to apply. Therefore, the Secretary has determined that publication of a proposed rule is unnecessary and contrary to the public interest under 5 U.S.C. 553(b)(B).

#### Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

**Paperwork Reduction Act of 1980**

These regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

**Assessment of Educational Impact**

The Secretary has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

**List of Subjects in 34 CFR Part 690**

Administrative practice and procedure, Education, Education of disadvantaged, Grant programs—education, Student aid.

(Catalog of Federal Domestic Assistance Number: 84.063 Pell Grant Program)

Dated: March 8, 1990.

**Lauro F. Cavazos,**

*Secretary of Education.*

The Secretary amends part 690 of title 34 of the Code of Federal Regulations as follows:

## PART 690—PELL GRANT PROGRAM

1. The authority citation for part 690 continues to read as follows:

**Authority:** 20 U.S.C. 1070a through 1070a–6, unless otherwise noted.

**§ 690.31 [Amended]**

2. In § 690.31, paragraph (a), the introductory text is amended by removing "1989–90", and adding, in its place, "1990–91", and by removing "1989", and adding, in its place, "1990"; paragraphs (a) (2), (3), (4), and paragraph (b), are amended by removing "1989" each time it appears, and adding, in its place, "1990"; paragraphs (a) (1), (2), (3), (4), and (6), are amended by removing "1988" each time it appears, and adding, in its place, "1989"; and the authority citation is revised to read as follows:

(Authority: Pub. L. 101–164)

**§ 690.32 [Amended]**

3. In § 690.32, paragraph (a), the introductory text is amended by removing "1989–90", and adding, in its place, "1990–91", and by removing "1989", and adding, in its place, "1990"; paragraphs (a) (1), (2), (3), (5), and paragraph (b) are amended by removing "1989" each time it appears, and adding, in its place, "1990"; paragraphs (a) (1), (2), (3), and (5), are amended by removing "1988" each time it appears, and adding, in its place, "1989"; and the authority citation is revised to read as follows:

(Authority: Pub L. 101–164)

[FR Doc. 90–7762 Filed 4–4–90; 8:45 am]

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federal register

Thursday
April 5, 1990

Part IV

# Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Cassia mirabilis; Stahlia monosperma; Geum radiatum and Hedyotis purpurea; and Lampsilis powelli; Final Rule

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**RIN 1018-AB31**

## Endangered and Threatened Wildlife and Plants; Cassia Mirabilis Determined To Be Endangered

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

**ACTION:** Final rule.

**SUMMARY:** The Service determines *Cassia mirabilis* (no common name) to be an endangered species pursuant to the Endangered Species Act (Act) of 1973, as amended. *Cassia mirabilis* is a plant that is endemic to the silica sands of northern Puerto Rico and is now limited to three sites in this area. The species is affected by sand extraction, the expansion of residential areas, and industrial development. This final rule will implement the Federal protection and recovery provisions afforded by the Act.

**EFFECTIVE DATE:** May 7, 1990.

**ADDRESSES:** The complete file for this rule is available for inspection, by appointment, during normal business hours at the Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boqueron, Puerto Rico 00622, 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. David P. Flemming at the Atlanta Regional Office address (404/331-3583 or FTS 242-3583).

**SUPPLEMENTARY INFORMATION:**

### Background

*Cassia mirabilis* was first collected by Dr. Agustin Stahl in the mid-nineteenth century. In 1899, Mr. Edward Heller collected the species in Vega Baja, an area of silica sands. Data obtained from herbarium collections indicate that this species was at one time common throughout the silica sands of the north coast of Puerto Rico (Vivaldi and Woodbury 1981). However, urban, industrial, and agricultural expansion has resulted in the restriction of the species to two areas in Dorado and scattered populations along the southern shore of the Tortuguero Lagoon.

Although *Cassia mirabilis* has been placed by various authors in *Cassia* as a species and in *Chamaecrista* both as a species and a variety (*Chamaecrista glandulosa* var. *mirabilis*), Liogier and Martorell (1982), in their flora of Puerto Rico and adjacent islands, retain the taxon as a species in the genus *Cassia*.

*Cassia mirabilis* is a prostrate, ascending or erect shrub which may reach more than 30 inches (1 meter) in height. The leaves are alternate, evenly one-pinnate, ⅛ to ¼ inches (3 to 5 millimeters) long, with some scattered-whitish hairs. The petioles have one to two stipitate glands. Flowers are yellow, solitary, ¾ inches (about 2 centimeters) in diameter, with one petal much larger than the others. Mature fruits (legumes) are glabrous, linear, 1 to 1½ inches (2.5 to 4 centimeters) long, ¼ inch (5 millimeters) wide, flat, elastically dehiscent, and 12 to 15 seeded. The species is endemic to the silica sands of the northern coast of Puerto Rico. These sands are fine, white, highly permeable and strongly acid. They are underlain by an impermeable hardpan located approximately 12 to 16 inches (30 to 40 centimeters) below the surface. Many species are found in Puerto Rico only on these white siliceous sands. Although a dry evergreen or littoral forest is found in the area, *Cassia mirabilis* is restricted to the open areas.

*Cassia mirabilis* was recommended for Federal listing in 1978 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 made annual findings in each October of 1983 through 1988 that listing *Cassia mirabilis* 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. The Service proposed listing *Cassia mirabilis* on April 14, 1989 (54 FR 14976). That action represented the final finding required for the petition process.

### Summary of Comments and Recommendations

In the April 14, 1989, proposed rule and associated notifications, all interested parties were requested to submit factual reports of information that might contribute to the development of a final rule. Appropriate agencies of the Commonwealth of Puerto Rico, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice inviting general public comment was published in the "San Juan Star" on April 29, 1989. Two letters of comment were received and are discussed below. A public hearing was neither requested nor held.

Two comments were received from U.S. Army Corps of Engineers (Corps). Neither had additional information on the status of the plant. The Jacksonville office of the Corps stated that a now inactive beach erosion project was previously identified as possibly impacting the species. If the project were to be reactivated its impact on this species should be evaluated. The species was not identified as being present in studies carried out for the Rio de La Plata Flood Protection Project.

The San Juan Corps office identified a project that had been submitted by the Hyatt Dorado Beach Hotel for the construction of a village complex within the range of the species.

### Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Cassia mirabilis* should be classified as an endangered species. Procedures found at 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 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 application to *Cassia mirabilis* (Pollard) Urban are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Destruction and modification of habitat have been, and continue to be, significant factors reducing the numbers of *Cassia mirabilis*. Once distributed throughout the silica sands in northern Puerto Rico, it is now restricted to the southern shore of Tortuguero Lagoon and two sites in the Dorado area. One Dorado site has been proposed for the construction of a

large office building complex. Present use of this site for grazing does not appear to adversely affect the species. A second, small population in Dorado, recently discovered during a routine evaluation of a local highway project by the Puerto Rico Department of Natural Resources, will soon be transplanted to save it from complete destruction. The Tortuguero populations, the largest, are threatened by sand extraction, squatters, and the dumping of trash in this area.

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 mechanisms.* The Commonwealth of Puerto Rico has adopted a regulation that recognizes and provides protection for certain Commonwealth listed species. However, *Cassia mirabilis* is not yet on the Commonwealth list. Federal listing would provide immediate protection and, if the species is ultimately placed on the Commonwealth list, it would further enhance its protection and the possibilities for funding needed research.

E. *Other natural or manmade factors affecting its continued existence.* One of the most important factors affecting the continued survival of *Cassia mirabilis* is its limited distribution. Only 150 to 200 plants are known to occur in 3 areas. One population, unless transplanted successfully, is destined to be eliminated by road construction. Although the Tortuguero Lagoon area is designated by the Puerto Rico Department of Natural Resources as a Natural Reserve, the land remains in private ownership. Continued intensive land alteration could result in the extinction of the species.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Cassia mirabilis* as endangered. The species is restricted to only three locations on the siliceous sands of the north coast, all of which are subject to habitat destruction and modification. 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 requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. The number of individuals of *Cassia mirabilis* 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. 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 process and through the section 7 jeopardy standard.

## 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)(2) requires Federal agencies to ensure that activities they authorize, fund or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. No critical habitat is being proposed for *Cassia mirabilis*, 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 endangered 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, or damaging or destroying in knowing violation of any State law or regulation, including state criminal trespass law. The 1988 amendments do not reflect this protection for threatened plants. 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 *Cassia mirabilis* 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, 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

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, Rio Piedras, Puerto Rico. 342 pp.
Vivaldi, J.L., and R.O. Woodbury. 1981. Status report on *Chamaecrista glandulosa* var. *mirabilis* (Pollard) Irwin & Barneby. Unpublished status report submitted to the U.S. Fish and Wildlife Service, Atlanta, Georgia. 36 pp.

### Author

The primary author of this final 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 species, Fish, Marine mammals, Plants (agriculture).

### Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations is amended, as set forth below:

### PART 17—[AMENDED]

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

**Authority:** 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1543; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order under Caesalpiniaceae, 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 | | | | | |
| Caesalpiniaceae-Cassia family: | | | | | | |
| *Cassia mirabilis* | (None) | U.S.A. (PR) | E | 379 | NA | NA. |

Dated: March 15, 1990.

**Richard N. Smith,**

*Acting Director, Fish and Wildlife Service.*

[FR Doc. 90-7810 Filed 4-4-90; 8:45 am]

BILLING CODE 4310-55-M

## DEPARTMENT OF THE INTERIOR

### 50 CFR Part 17

**RIN 1018-AB31**

## Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for Stahlia monosperma (Cóbana Negra)

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

**ACTION:** Final rule.

**SUMMARY:** The Service determines *Stahlia monosperma* (cóbana negra) to be a threatened species pursuant to the Endangered Species Act (Act) of 1973, as amended. *Stahlia monosperma* is a medium-sized evergreen tree endemic to the island of Puerto Rico and the nearby Dominican Republic. The species is found in brackish, seasonally flooded wetlands in association with mangrove communities. *Stahlia monosperma* is affected by coastal development and the elimination of these wetlands by both filling and dredging, cutting of the tree for use in furniture and as fenceposts, and grazing. This final rule will extend the Federal protection and recovery provisions afforded by the Act to *Stahlia monosperma*.

**EFFECTIVE DATE:** May 7, 1990.

**ADDRESSES:** The complete file for this rule is available for inspection, by appointment, during normal business hours at the Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622 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. David P. Flemming at the Atlanta Regional Office address (404/331-3583 or FTS 242-3583).

**SUPPLEMENTARY INFORMATION:**

### Background

*Stahlia monosperma* (cóbana negra) was placed in the genus *Stahlia* in 1881 in honor of Dr. Augustin Stahl, a physician and botanist of Puerto Rico who authored "Estudios sobre la flora de Puerto Rico". It is the only species in this genus. It was initially thought to be endemic to Puerto Rico and the adjacent island of Vieques, but was later collected in eastern Hispaniola. While at one time rather common on the edges of salt flats and shallow lagoons, filling or draining of these areas, cutting for use in furniture and fenceposts, and grazing have left only scattered small populations in Puerto Rico and Vieques. The largest remaining population occurs in the extreme southwest of Puerto Rico, an area currently subject to intense pressure for residential and tourist development (Department of Natural Resources 1988). Botanists from the Dr. Rafael M. Moscoso National Botanical Gardens in the Dominican Republic indicate that the species has been similarly affected in that part of the range.

*Stahlia monosperma* is a medium-sized evergreen tree that may reach 25 to 50 feet (8 to 16 meters) in height and 1 to 1½ feet (.3 to .5 meters) in diameter. The pinnately compound, alternate leaves have from 6 to 12 opposite leaflets with scattered black dots or glands on the lower surface. Racemes (3 to 6 inches or 7 to 15 centimeters) of yellow flowers are produced between March and May, with the exact period being dependent upon rainfall. The fruits are about 1 inch (2 to 3 centimeters) in diameter and have a thin, red fleshy covering surrounding the single, large seed. These fruits have the noticeable odor of ripe apple. Seeds are apparently animal dispersed and germinate after burial and when surface water has receded (Densmore 1987).

Only scattered populations are known to occur in Puerto Rico and the nearby island of Vieques. The largest population occurs on the southwestern coast of Puerto Rico near Boquerón. Here 23 mature trees have been observed along with a group of 35 seedlings, all on the edge of salt flats. It is found associated with black mangrove (*Avicennia germinans*) and buttonwood (*Conocarpus erectus*). Several more individuals, which have been planted, are known to occur in yards and roadways. Other mature trees are found near mangrove areas in Rio Grande on the northeast coast and on the edge of mangrove forest on Vieques.

a 52 square mile island to the east of Puerto Rico. From 30 to 40 individuals occur on Vieques, all on U.S. Navy property. These populations are threatened by encroachment of development into these wetland areas and the elimination of mature trees. Establishment of seedlings is frequently difficult as they are either trampled or browsed by cattle grazing in the area.

*Stahlia monosperma* 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 Fish and Wildlife Service, as published in the **Federal Register** (45 FR 82480) dated December 15, 1980; the November 28, 1983, update (48 FR 53640) 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 candidate 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 made subsequent petition findings in each October of 1983 through 1988 that listing *Stahlia monosperma* 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. The Service proposed listing *Stahlia monosperma* on May 12, 1989 (54 FR 20616). That action constituted the final finding required by the petition process.

**Summary of Comments and Recommendations**

In the May 12, 1989, proposed rule and associated notifications, all interested parties were requested to submit factual reports of information that might contribute to the development of a final rule. Appropriate agencies of the Commonwealth of Puerto Rico, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice inviting general public comment was published in the "El Dia" on May 27, 1989. Four letters of comment were received and are discussed below. A public hearing was neither requested nor held.

The Department of the Navy, Environmental Engineering Division of Roosevelt Roads Naval Station and Vieques Island, reported that *Stahlia monosperma* could be found in both Ensenada Honda and Laguna Kiani. Both areas are classified as Class I Ecological Conservation Zones in which the cutting of vegetation, off road maneuvers, or development are not permitted. Grazing is also excluded from these areas.

The Puerto Rico Department of Natural Resources supported the designation of *Stahlia monosperma* as threatened and reported several cultivated trees from the Vega Commonwealth Forest and the Cayey Campus of the University of Puerto Rico. The U.S. Corps of Engineers, Jacksonville District, did not have civil works projects or active permit applications in the Boquerón area; however, they anticipated receiving at least one permit application during the next year.

Professor Gary Breckon, of the Mayaguez Campus of the University of Puerto Rico, supplied information on the distribution of cóbana negra in Puerto Rico and the Dominican Republic and on the reproductive biology of the species. He reported indivduals in the Boquerón area in Puerto Rico and from only one area, La Altagracia Province, in the Dominican Republic. Additional cultivated indivduals were reported. Professor Breckon reported flowering from March and April and fruit set during late June through mid July. Concern was expressed for the number and source of cultivated plants, all possibly originating from a single seed source.

**Summary of Factors Affecting the Species**

After a thorough review and consideration of all information available, the Service has determined that *Stahlia monosperma* should be classified as a threatened species. Procedures found at 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 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 application to *Stahlia monosperma* (Tul.) Urban (cóbana negra) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The most significant factor reducing the numbers of *Stahlia monosperma* has been the destruction and modification of habitat. Coastal development continues to encroach on coastal mangrove forests and salt flats. Both residential and tourist development complexes are proposed for southwestern Puerto Rico. Many trees are known to have been eliminated in this way. Although in many of these areas the mangroves are part of the Commonwealth Forest system, the specimens of *Stahlia monosperma* lie just inland of black mangrove and are therefore not included within the Forest boundaries.

B. *Overutilization for commercial, recreational, scientific, or educational purposes. Stahlia monosperma* is highly valued for fenceposts and the species may have been greatly reduced in number by cutting of smaller size classes for this purpose. It is also suited for use in furniture.

C. *Disease or predation.* Disease has not been documented as a factor in the decline of this species. However, seedlings are apparently often short-lived in the wild, as those accessible to cattle are usually either trampled or browsed within one year following establishment. Some large trees have also been observed to be damaged by heavy browsing (Densmore 1987).

D. *The inadequacy of existing regulatory mechanisms.* The Commonwealth of Puerto Rico has adopted a regulation that recognizes and provides protection for certain Commonwealth listed species. However, *Stahlia monosperma* is not yet on the Commonwealth list. Federal listing would provide immediate 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.* Other natural or manmade factors are not known to be significantly affecting the species at present.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation the preferred action is to list *Stahlia monosperma* as threatened. Since the species appears to produce large quantities of viable seed, protection from the effects of grazing may increase natural colonization. Planting of this species has been successful and propagation efforts are ongoing by the Puerto Rico Department of Natural Resources. Therefore, threatened rather than endangered 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 requires, to the maximum extent prudent and determinable, that the Secretary designate 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 *Stahlia monosperma* 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 key 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 process and through the section 7 jeopardy standard. Therefore, it would not be prudent to determine critical habitat for *Stahlia monosperma* at this time.

**Available Conservation Measures**

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain 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 endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of 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. No critical habitat is being proposed for *Stahlia monosperma*, as discussed above. Federal invlvement relates to the Army Corps of Engineers regulatory program in areas under jurisdiction of section 404 of the Clean Water Act, as well as internal actions taken by the Corps relative to U.S. Navy property.

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exceptions that apply to all threatened plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, would apply. These prohibitions, in part, make it illegal for any person subject to the jurisidiction of the United States to import or export any threatened 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 to remove and reduce to possession the species from areas under Federal jurisdiction. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. Certain exceptions can apply to agents of the Service and Commonwealth conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances. It is anticipated that few trade permits for *Stahlia monosperma* will ever be sought or issued since the species is not known to be in commercial 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, P.O. Box 3507, Arlington, Virginia 22203–3507 (703/358–2104).

**National Environmental Policy Act**

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

**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.

Densmore, R. 1987. Status report on *Stahlia monosperma* (cobana negra) in southwestern Puerto Rico. Unpublished report submitted to the Caribbean Field Office, U.S. Fish and Wildlife Service, Boqueron, Puerto Rico.

Department of Natural Resources, Natural Heritage Program. 1988. Status information on *Stahlia monosperma* in Puerto Rico and adjacent islands. San Juan, Puerto Rico.

**Author**

The primary author of this final 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 species, Fish, Marine mannals, Plants (agriculture).

**Regulation Promulgation**

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

## PART 17—[AMENDED]

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

**Authority:** 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1543; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order, under Fabaceae 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 | | | | | |
| • • • | | • | • | • | • | |
| Fabaceae—Pea family: | | | | | | |
| *Stahlia monosperma* | Cobana negra | U.S.A. (PR) Dominican Republic. | T | 380 | NA | NA. |
| • • • | | • | • | • | • | |

Dated: March 15, 1990.

**Richard N. Smith,**

*Acting Director, Fish and Wildlife Service.*

[FR Doc. 90-7811 Filed 4-4-90; 8:45 am]

BILLING CODE 4310-55-M

## 50 CFR Part 17

**RIN 1018-AB31**

## Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Geum radiatum and Hedyotis purpurea var. montana

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

**ACTION:** Final rule.

**SUMMARY:** The Service lists two plants, *Geum radiatum*, (spreading avens) and *Hedyotis purpurea* var. *montana* (Roan Mountain bluet), as endangered species under authority of the Endangered Species Act of 1973, as amended (Act). These perennial herbs, limited to 11 *Geum* populations and 6 *Hedyotis* populations in North Carolina and Tennessee, are endangered by residential and recreational development, habitat disturbance due to heavy use by hikers and climbers, collection, and natural succession. This action implements Federal protection provided by the Act for *Geum radiatum* and *Hedyotis purpurea* var. *montana*

**EFFECTIVE DATE:** May 7, 1990.

**ADDRESSES:** The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801.

**FOR FURTHER INFORMATION CONTACT:** Nora Murdock at the above address (704/259-0321 or FTS 672-0321).

**SUPPLEMENTARY INFORMATION:**

### Background

*Geum radiatum*, described by André Michaux (1803) from material collected in North Carolina, is a perennial herb with basal rosettes of leaves arising from horizontal rhizomes. The stems grow 2 to 5 decimeters tall and are topped with an indefinite cyme of bright yellow actinomorphic flowers. Flowering occurs from June through September, with fruiting from August through October. The fruit is a hemispheric aggregate of hirsute achenes, 7 to 9 millimeters in diameter (Kral 1983, Radford *et al.* 1968, Massey *et al.* 1980). This species can be easily distinguished from other Southeastern *Geums* by its large yellow flowers and by its leaves (mostly basal), which have large terminal lobes and small laterals (Massey *et al.* 1980). *Geum radiatum* has been placed in other genera by various workers; Robert Brown (1823) placed it in the genus *Sieversia;* Bolle (1933) placed it in the genus *Acomastylis*; and Hara (1935) placed it in *Parageum*. Currently accepted taxonomic treatment places this species in the genus of Michaux's original description (Raynor 1952, Robertson 1974).

*Hedyotis purpurea* (L.) T. & G. var. *montana* (Small) Fosberg was first described as *Houstonia montana* in 1903 by J. K. Small from specimens collected by J. W. Chickering, Jr., in 1877 from the summit of Roan Mountain in North Carolina and Tennessee. Another synonym is *Houstonia purpurea L.* var. *montana* (Small) (Terrell 1959, Terrell 1978). This species is a shallow-rooted perennial that forms low-growing, loose tufts 1 to 1.5 decimeters tall. The inflorescence is a subsessile few-flowered cyme. The bright purple flowers appear in July and early August, followed by the many-seeded capsule (Kral 1983, Radford *et al.* 1968). *H. purpurea* var. *montana* is distinguished from *H. p.* var. *purpurea* by its larger corolla size, different corolla color (deep purple as opposed to purplish to white in *H. p.* var. *purpurea*), and its larger seed size (Kral 1983, Terrell 1978).

These two species are endemic to a few scattered mountaintops in western North Carolina and eastern Tennessee where they grow, exposed to full sunlight, in the shallow acidic soils of high elevation cliffs, outcrops, steep slopes, and gravelly talus associated with cliffs. Substrate types are variable for the species but include various igneous, metamorphic, and metasedimentary rocks such as quartz diorite, garnet-rich biotite, muscovite and quartz schist, quartz phyllite, metagraywacke, metaconglomerate, and metarkoses containing feldspar and chlorite, amphibole, hornblende, and feldspar gneiss (Massey *et al.* 1980). Common associates of these two species include *Leiophyllum buxifolium, Menziesia pilosa, Rhododendron catawbiense, Aster* spp., *Carex* spp., *Solidago* spp., *Heuchera villosa, Saxifraga michauxii,* and various grass species. Some of the sites are also occupied by *Liatris helleri* and/or *Solidago spithamaea,* species that are already federally listed as threatened. The high elevation coniferous forests adjacent to the rock outcrops and cliffs occupied by these two species are dominated by red spruce (*Picea rubens*) and another Federal candidate species, Fraser fir (*Abies fraseri*) (Massey *et al.* 1980, Morgan 1980, Kral 1983).

Sixteen populations of *Geum radiatum* have been reported historically; 11 remain in existence. Three of these populations are in Ashe County, North Carolina, with one population each remaining in Avery, Transylvania, Watauga, Buncombe, and Yancey Counties, North Carolina, and Sevier County, Tennessee; the other two populations are located on the Mitchell County, North Carolina/Carter County, Tennessee line and the Avery/Watauga County line in North Carolina. Six of the remaining populations are located on privately owned lands; four are located on public land administered by the U.S. Forest Service and the National Park Service, and one is located on State park land administered by the North Carolina Department of Environment, Health, and Natural Resources. Five additional populations were historically known for this species. The reasons for the disappearance of *Geum radiatum* at these sites are undocumented. However, most of the sites have been subjected to heavy recreational use by hikers, climbers, and sightseers.

*Hedyotis purpurea* var. *montana* was known historically from seven populations; six remain. Two of these are located on the line between Avery and Watauga Counties, North Carolina; one is at the juncture of the boundaries of Mitchell and Avery Counties, North Carolina, and Carter County, Tennessee; two are in Ashe County, North Carolina;

and one population remains in Watauga County, North Carolina. The seventh population was reported from Yancey County, North Carolina, but has not been found there during recent searches (Paul Somers, personal communication, Tennessee Department of Conservation, 1988; Alan Weakley, personal communication, North Carolina Natural Heritage Program). That site, like those from which *Geum radiatum* has vanished, has also been subjected to relatively heavy recreational use.

The continued existence of both species is threatened by trampling and associated soil erosion and compaction, other forms of habitat disturbance due to heavy use of the habitat by recreationists such as hikers, as well as by development for commercial recreational facilities and residential purposes. Since both species are early successional pioneers, some of the populations are also threatened by natural succession (Massey *et al.* 1980, Kral 1983). Construction of new trails, other recreational improvements, significant increases in intensity of recreational use, or intensive development without regard to the welfare of these species at any of the sites could further jeopardize their continued existence. Most of the populations occupy a very small total area. Seven of the remaining *Geum radiatum* populations have fewer than 50 plants remaining in each, with 3 of these having fewer than 10 plants each. Over the past decade, at least four of the currently extant *Geum radiatum* populations have undergone significant population declines (ranging from 67 percent to 96 percent); four others have suffered declines of lesser magnitude. Only three are known to have maintained relative stability during the same period. One of the privately owned sites for these two species has been developed as a commercial recreation facility; development of a second site as a ski resort is currently underway. The third privately owned site is owned in part by The Nature Conservancy and is therefore partially protected. The remaining three sites in private ownership are unprotected, with residential development currently underway at two of the sites. The five sites in public ownership are located in scenic areas that attract large numbers of visitors annually.

Federal government actions on *Geum radiatum* began with 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. The Service published a notice in the July 1, 1975, **Federal Register** (40 FR 27832) of its acceptance of the report of the Smithsonian Institution 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 named within. *Geum radiatum* was included in the July 1, 1975, notice of review. On December 15, 1980, the Service published a revised notice of review for native plants in the **Federal Register** (45 FR 82480); *Geum radiatum* was included in that notice as a category 1 species; *Hedyotis purpurea* var. *montana* was included as a category 2 species. Category 1 species are those species for which the Service currently has on file substantial information on biological vulnerability and threats to support proposing to list them as endangered or threatened species. Category 2 species are those for which listing as endangered or threatened may be warranted but for which substantial data on biological vulnerability and threats is not currently known or on file to support proposed rules.

On November 28, 1983, the Service published a supplement to the notice of review for native plants in the **Federal Register** (48 FR 53640); the plant notice was again revised September 27, 1985, (50 FR 39536). *Geum radiatum* was included as a category 2 species in both the 1983 supplement and the 1985 revised notice. *Hedyotis purpurea* var. *montana* was included in the 1985 notice as a category 2 species. Subsequent to the 1985 notice, the Service received additional information from the North Carolina Natural Heritage Program (A. Weakley, personal communication, 1988); this information and additional field data gathered by the Heritage Program, the Fish and Wildlife Service, and the National Park Service (Keith Langdon, personal communication, Great Smoky Mountains National Park, 1988; Bambi Teague, personal communication, Blue Ridge Parkway, 1988) indicate that the addition of *Geum radiatum* and *Hedyotis purpurea* var. *montana* to the Federal List of Endangered and Threatened Plants is warranted.

Section 4(b)(3)(B) of the Endangered Species Act, as amended in 1982, requires the Secretary to make certain findings on pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Geum radiatum* because of the acceptance of the 1975 Smithsonian Report as a petition. In October of 1983, 1984, 1985, 1986, 1987, and 1988, the Service found that the petitioned listing of *Geum radiatum* was warranted but precluded by listing actions of a higher priority and that additional data on vulnerability and threats were still being gathered. On July 21, 1989, the Service published a proposal to list the species as endangered. Publication of that rule constituted the final finding that is required.

**Summary of Comments and Recommendations**

In the July 21, 1989, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comments. Newspaper notices inviting public comment were published in the *Asheville Citizen-Times* (Asheville, North Carolina) on August 27, 1989; *Watauga Democrat* (Boone, North Carolina) on August 25, 1989; *Transylvania Times* (Brevard, North Carolina) on August 28, 1989; *Yancey Journal* (Burnsville, North Carolina) on August 30, 1989; *Avery Journal* (Newland, North Carolina) on August 31, 1989; *Mountain Press* (Sevierville, Tennessee) on August 26, 1989; *Elizabethton Star* (Elizabethton, Tennessee) on August 27, 1989; and *Jefferson Post* (West Jefferson, North Carolina) on August 28, 1989.

Eleven comments were received. Of these, nine respondents expressed support for the proposal, including the U.S. Forest Service, the National Park Service, the Tennessee Department of Conservation, the Land-of-Sky Regional Council, the North Carolina Department of Agriculture's Plant Conservation Program, the Tennessee Valley Authority, and the mayor of Mars Hill, North Carolina. One comment was received that stated no position on the proposal. The North Carolina Farm Bureau Federation expressed concern that the listing of these two species without designation of critical habitat would result in undue restrictions on the use of agricultural pesticides in the State. The Service believes that the recent consultation with the Environmental Protection Agency has resulted in an effective program for protecting endangered species from pesticides without unduly restricting the

commercial use of such chemicals. In addition, neither of the two species in question occurs in areas immediately adjacent to farmland or commercially managed forests. Critical habitat was not designated for these species (see "Critical Habitat" section of this rule) because both are exceedingly rare and attractive to collectors; publication of site-specific maps could result in the further endangerment of these plants, especially at sites where only a few individuals remain.

**Summary of Factors Affecting the Species**

After a thorough review and consideration of all information available, the Service has determined that *Geum radiatum* and *Hedyotis purpurea* var. *montana* should be classified as endangered species. Procedures found at 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 were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Geum radiatum* Michaux (spreading avens) and *Hedyotis purpurea* var. *montana* (Chickering) Fosberg (Roan Mountain bluet) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range. Geum radiatum* and *Hedyotis purpurea* var. *montana* are restricted to a few mountaintops and cliff faces in the southern Appalachians of western North Carolina and eastern Tennessee (see "Background" section for specific distributions). Although populations are declining and vanishing for reasons that are, in many cases, not clearly understood, destruction and adverse modification of their habitat pose a major threat to the remaining populations of both species. Thirty-one percent of the historically known *Geum radiatum* populations have been extirpated, along with 17 percent of the *Hedyotis purpurea* var. *montana* populations. Only 11 populations of the *Geum* and 6 of the *Hedyotis* remain.

The 6 remaining *Hedyotis* populations are small and vulnerable, with two occupying a total of less than 10 square meters. Two of these populations occupy sites that have been or are being developed for commercial recreation. A third site, located on land administered by the U.S. Forest Service, contains 41 percent of the remaining individuals of this species and is subjected to heavy and increasingly intense recreational use. The other three populations, located on private land, are protected only so long as concerned and willing landowners are able to extend necessary safeguards to the species.

As detailed in the "Background" section, significant declines have been documented in many of the extant *Geum* populations during the past decade. Five of the remaining 11 *Geum* populations are located on public lands where they are subjected to heavy recreational use. One of these sites, owned by the U.S. Forest Service, currently supports 73 percent of the remaining individuals of this species; recreational pressure on this already heavily used site is steadily increasing. Of the six privately owned sites, one has been developed as a commercial recreation facility that attracts several hundred thousand visitors annually. A second site is currently being developed as a ski resort; the other four privately owned sites are currently unprotected and located in an area that is rapidly developing as a center for resorts and tourism.

The greatest damage to *Geum radiatum* and *Hedyotis purpurea* var. *montana* in the past has probably come from the commercial development of the open mountain summits where they occur. The construction of trails, parking lots, roads, buildings, observation platforms, suspension bridges, and other recreational, residential, and commercial facilities has taken its toll on the species either through the actual construction process or by trampling due to hikers and sightseers (Kral 1983). Currently, heavy trampling occurs at six of the locations where these two species are known to survive; however, all of the small habitats occupied by these species are threatened by increases in intensity of use, particularly if additional development occurs (Massey *et al.* 1980).

With anticipated increased usage by sightseers, rock climbers, and hikers at 8 of the remaining 11 localities where *Geum radiatum* occurs, and at 4 of the 6 remaining *Hedyotis purpurea* var. *montana* localities, significant impacts on these species in the form of increased soil erosion, soil compaction, and trampling could occur if protection is not provided. Likewise, additional development at any of the locales (such as expansion of trails or sidewalks, construction of additional visitor facilities, or residential development) could further threaten the species if proper planning does not occur.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Neither *Geum radiatum* nor *Hedyotis purpurea* var. *montana* is currently a significant component of the commercial trade in native plants; however, both have attractive growth habits and showy flowers and have potential for horticultural use. Some collecting from wild populations of *Geum* is already occurring. Publicity could generate an increased demand and intensify collecting pressure on wild populations of both species.

C. *Disease or predation.* These taxa are not known to be threatened by disease or predation.

D. *The inadequacy of existing regulatory mechanisms. Geum radiatum* and *Hedyotis purpurea* var. *montana* are afforded legal protection in North Carolina by North Carolina General Statute, Chapter 106, Article 19–B, 202.12–202.19, which prohibits intrastate trade and taking of State-listed plants without a State permit and written permission of the landowner. *Geum radiatum* is listed in North Carolina as threatened—special concern (currently proposed as endangered—special concern); *Hedyotis purpurea* var. *montana* is currently being added to the State's list as endangered. In Tennessee, State-listed plants are afforded legal protection by the Rare Plant Protection and Conservation Act of 1985, Tennessee Code Ann., Chapter 242, section 11–26–201 to 11–26–214, Public Acts of 1985. This statute prohibits taking of listed species without permission of the landowner or manager and regulates commercial sale and export. *Geum radiatum* is listed as endangered in Tennessee. State prohibitions against taking are difficult to enforce and do not cover adverse alterations of habitat or unintentional damage from recreational use. The Endangered Species Act will provide additional protection and encouragement of active management for *Geum radiatum* and *Hedyotis purpurea* var. *montana*, particularly on Federal lands.

E. *Other natural or manmade factors affecting its continued existence.* These taxa are rare and vulnerable due to their specialized habitat requirements and the limited amount of potential habitat. As mentioned in the previous sections of this rule, most of the remaining populations are small in numbers of individuals and in terms of area covered by the plants. Therefore, little genetic variability exists in these species, making it more important to maintain as much habitat and as many of the remaining colonies as possible. *Geum radiatum* and *Hedyotis purpurea* var. *montana* are early pioneer species growing on rock ledges in full sun. Depending upon the elevation and

suitability of the site for supporting woody vegetation, invasion by shrubs and trees can occur, eliminating these species by overcrowding and shading. Since this type of succession is a slow process, this is not considered an immediate threat to survival of the species. However, proper management planning for *Geum radiatum* and *Hedyotis purpurea* var. *montana* is needed to address this aspect of the species' biology. Natural rock slides, severe storms or droughts, or other natural events may also eliminate populations of these plants.

In recent years the spruce fir forests adjacent to the cliffs and rock outcrops occupied by these species have suffered dramatic declines due, at least in part, to airborne pollution and the impacts of an exotic insect, the balsam wooly aphid. The impacts of this forest decline on these two rare herbaceous species cannot be accurately assessed at this time. Even though both species are pioneers and require exposure to full sunlight, the drastic decline in the high elevation forests may result in excessive desiccation of the moist sites occupied by *Geum* and *Hedyotis*. This theory would seem to be supported by the fact that populations of *Geum*, particularly those located on drier sites, usually abort the fruiting stems before seed can be set. The rhizomes of these perennials are believed to be capable of surviving for decades (Prince and Morse 1985), but continued failure in seed production poses a definite threat to long-term survival and recovery of the species.

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 *Geum radiatum* and *Hedyotis purpurea* var. *montana* as endangered. With 31 percent of the *Geum* and 17 percent of the *Hedyotis* populations having already been extirpated, and only 11 populations of *Geum* and 6 of *Hedyotis* remaining (all of which are subject to some form of threat), these species warrant protection under the Act. With the small number of remaining populations and the small number of individuals and area covered by these populations, and with significant declines having been documented in many of the surviving populations, these two plants are in danger of extinction throughout all or significant portions of their ranges and therefore qualify as endangered species under the Act. Critical habitat is not being designated for the reasons discussed below.

**Critical Habitat**

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate 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 *Geum radiatum* or *Hedyotis purpurea* var. *montana* at this time. Publication of critical habitat descriptions and maps would increase public interest and possibly lead to additional threats for these species from collecting and vandalism (see threat factor "B" above). Both species have showy flowers and have some potential for horticultural use. Increased publicity and a provision of specific location information associated with critical habitat designation could result in increased collecting from wild populations since neither species is readily available from cultivated sources. Although taking of endangered plants from lands under Federal jurisdiction (and from privately owned lands under certain circumstances (see "Available Conservation Measures" section)) and reduction to possession is prohibited by the Endangered Species Act, taking provisions are difficult to enforce. Publication of critical habitat descriptions would make *Geum radiatum* and *Hedyotis purpurea* var. *montana* more vulnerable and would increase enforcement problems for the U.S. Forest Service and the National Park Service. Also, the populations on private lands would be more vulnerable to taking. Increased visits to population locations stimulated by critical habitat designation, even without collection of plants, could adversely affect the species due to the associated increase in trampling of the fragile habitat occupied by these plants. The Federal and State agencies and landowners involved in managing the habitat of these species have been informed of the plants' locations and of the importance of protection; therefore, it would not be prudent and no additional benefit would result from a determination of critical 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 certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of 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.

The U.S. Forest Service and the National Park Service have jurisdiction over portions of the species' habitat. Federal activities that could impact *Geum radiatum* and *Hedyotis purpurea* var. *montana* and their habitat in the future include, but are not limited to, the following: construction of recreational facilities (including trails, buildings, or maintenance of these facilities), use of aerially applied retardants in fire-fighting efforts, road construction, permits for mineral exploration, and any other activities that do not include planning for the species' continued existence. The Service will work with the involved agencies to secure protection and proper management of *Geum radiatum* and *Hedyotis purpurea* var. *montana* while accommodating agency activities to the extent possible.

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 at 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 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, the 1988 amendments (Pub. L. 100-478) to the Act protect endangered plants from malicious damage or destruction on Federal lands and their removal, cutting, digging up, or damaging or destroying in knowing violation of any State law or regulation, including State criminal trespass law. The 1988 amendments do not reflect this protection for threatened plants. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued since *Geum radiatum* and *Hedyotis purpurea* var. *montana* are not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, P.O. Box 3507, Arlington, Virginia 22203-3507 (703/358-2104).

### National Environmental Policy Act

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

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### Author

The primary author of this final rule is Nora Murdock, Asheville Field Office, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801 (704/259-0321 or FTS 672-0321).

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

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

### Regulations Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

## PART 17—[AMENDED]

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

**Authority:** 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1543; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order, to the List of Endangered and Threatened Plants:

**§ 17.12 Endangered and threatened plants.**

* * * * *

(h) * * *

| Species | | Historic range | Status | When listed | Critical habitat | Special rules |
|---|---|---|---|---|---|---|
| Scientific name | Common name | | | | | |
| Rosaceae—Rose family: | | | | | | |
| * * * | * * | * * | * | * | | |
| *Geum radiatum* | Spreading avens | U.S.A. (NC, TN) | E | 381 | NA | NA |
| * * * | * * | * * | * | * | | |
| Rubiaceae—Coffee family: | | | | | | |
| * * * | * * | * * | * | * | | |
| *Hedyotis purpurea* var. *montana*. | Roan Mountain bluet | U.S.A. (NC, TN) | E | 381 | NA | NA |
| * * * | * * | * * | * | * | | |

Dated: March 15, 1990.

**Richard N. Smith,**

*Acting Director, Fish and Wildlife Service.*

[FR Doc. 90-7812 Filed 4-4-90; 8:45 am]

BILLING CODE 4310-55-M

**50 CFR Part 17**

**RIN 1018-AB31**

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

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

**ACTION:** Final rule.

**SUMMARY:** The Service determines the Arkansas fatmucket, *Lampsilis 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.

**EFFECTIVE DATE:** May 7, 1990.

**ADDRESSES:** The complete file for this rule is available for inspection, by appointment, during normal business hours at the Jackson Field Office, U.S. Fish and Wildlife Service, Jackson Mall Office Center, Suite 316, 300 Woodrow Wilson Avenue, Jackson, Mississippi 39213.

**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 elliptical to long obovate with subinflated valves. The umbos are moderately full and project slightly above the hinge line. The shall 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' currently 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 land, 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 species was listed as a candidate (category 2) in the notice of review published on January 6, 1989 (54 FR 579). Category 2 species are those taxa for which the Service needs additional information before proposing to list the species. The proposed rule to classify *L. powelli* as a threatened species was published on July 27, 1989 (54 FR 31212).

## Summary of Comments and Recommendations

In the proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice inviting general public comment was published in the *Sentinel Record*, Hot Springs, Arkansas on August 12, 1989, and in the *Arkansas Democrat* and the *Arkansas Gazette*, Little Rock, Arkansas on August 13, 1989. Ten comments were received. Four State agencies commented in support of the proposed rule and two State agencies did not take a position. A Federal agency committed to supporting populations of *L. powelli* without specifically expressing a position on the proposed rule. Several issues were raised by commenters and are discussed below.

*Issue 1:* Impacts to *Lamsilis powelli* from silvicultural practices within the Ouachita Mountains.

*Response:* One commenter objected to conclusions in the proposed rule regarding the adverse impacts of silviculture to this species and provided information to support an opposing position. This information has been incorporated into the discussion under Factor A in the "Summary of Factors Affecting the Species" below.

*Issue 2:* Establish present extent of distribution prior to making ruling.

*Response:* The Service contracted for a survey of the range and based the proposed rule upon that survey. This is the best available information on the status of the species.

*Issue 3:* Impact of listing on potential municipal water supply.

*Response:* The Service must make determinations solely on the basis of the best available scientific and commercial information regarding a species' status, without reference to possible economic or other impacts of such determination.

## Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Arkansas fatmucket (*Lampsilis powelli*) should be classified as a threatened species. Procedures found at 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 listed provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the 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 (Harris 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. Silvicultural practices in the area have contributed to sedimentation problems. There is a difference of opinion in the literature over the degree of impact from sedimentation resulting from silviculture. Using an Arkansas Soil and Water Conservation Commission (Commission) report, Harris and Gordon (1988) estimated 214,300 tons of sediment are transported annually in the Alum Fork and Middle Fork Saline Rivers, where the best population and habitat occurs. The majority of this erosion is sheet and rill, with road- and stream-bank erosion accounting for most of the remainder.

In a nonpoint source assessment of potential erosion and siltation from silviculture, the Arkansas Department of Pollution Control and Ecology (1989) found that significant impairments to the streams in the Ouachita Mountains region had not occurred. Beasley, *et al.* (1984), developed data that cast doubt on the Commission method of predicting erosion of forest roads. Miller, *et al.* (1985 a, b), estimated the sediment rate from forest roads and lands to be about one percent of the Commission's estimated rate. Lawson (1985) considered erosion rates in Ozark-Ouachita Mountain soils to be low due to very porous soil, high filtration rates, moderate to large amounts of rock, and fibrous roots of vegetation that protect the soil surface from raindrop impact and impede flow. The use of a universal soil loss equation in the Commission's estimate for the Ouachita Mountains is apparently inadequate in light of this later research. As a result, the impact of sediment from silviculture on Ouachita Mountain streams may not be significant.

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 in varying degrees 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 make this rule final. 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 affected 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 may 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 action, 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)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

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.

### National Environmental Policy Act

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

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## Author

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

## List of Subjects in 50 CFR Part 17

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

## Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

## PART 17—[AMENDED]

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

**Authority:** 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1543; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.11(h) by adding the following, 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) | | T | 382 | NA | NA |
| * | * | * | * | * | * | | |

Dated: March 15, 1990.

**Richard N. Smith,**

*Acting Director, Fish and Wildlife Service.*

[FR Doc. 90–7813 Filed 4–4–90; 8:45 am]

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federal register

Thursday
April 5, 1990

Part V

# Department of Justice

## Office of Juvenile Justice and Delinquency Prevention

## Missing Children's Assistance Act Program Priorities for Fiscal Year 1990, Notice

## DEPARTMENT OF JUSTICE

### Office of Juvenile Justice and Delinquency Prevention

### Missing Children's Assistance Act Program Priorities for Fiscal Year 1990

**AGENCY:** Office of Juvenile Justice and Delinquency Prevention, Justice.

**ACTION:** Notice of FY 1990 Research, Demonstration, and Service Program priorities and merit selection criteria under the Missing Children's Assistance Act.

**SUMMARY:** The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is publishing its final notice of FY 1990 program priorities for making grants and contracts under section 405 of the Missing Children's Assistance Act, title IV, of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended by the Juvenile Justice and Delinquency Prevention Amendments of 1988, subtitle F of title VII of Public Law 100–690.

**FOR FURTHER INFORMATION CONTACT:** D. Duane Ragan, Acting Director, Missing Children's Program, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW., Washington, DC 20531, (202) 724–7751.

**SUPPLEMENTARY INFORMATION:** Responsibility for establishing annual research, demonstration, and service program priorities and criteria for making grants and contracts pursuant to section 405 of the Missing Children's Assistance Act rests with the Administrator of the Office of Juvenile Justice and Delinquency Prevention. For FY 1990, the final funding priorities for section 405 will be the continuation of three programs. The Acting Administrator is hereby announcing these final priorities, specifying merit and performance criteria to be applied in their review.

Listed below are programs currently funded under section 405 of the Missing Children's Assistance Act that will be considered for continued funding under existing project period grants. These are programs planned for their third year of a three year project period.

*Families of Missing Children: Psychological Consequences and Promising Interventions* ($500,000; project period 10/1/87–5/15/91)

The purpose of this project is to increase our knowledge of, and develop effective treatment alternatives for, the psychological consequences to families with missing and exploited children (405(a)(4) (A) and (B)).

*Reunification of Missing Children* ($100,000; project period 10/1/88–9/30/91)

The purpose of this development initiative is to identify promising or effective strategies to assist families in adjusting to the return of a missing child (405(a)(7)).

*Missing and Exploited Children's Comprehensive Action Program* ($400,000; project period 10/1/88–9/30/91)

The purpose of this program is to design and implement a community organization and planning strategy to guide comprehensive program development focused on missing and exploited children. The program would promote specific programmatic and procedural prototypes to serve this youth population and suggest organizational, planning and program development strategies to coordinate and concentrate the resources of the juvenile justice system to address the issue of missing and exploited youth with emphasis on the family and mobilizing volunteers (405(a) (1)–(3)).

The following criteria, based on merit, will be considered in assessing the three noncompeting continuation awards listed above (a noncompeting continuation grant is a grant made in support of a new budget period within an approved and existing project period):

(1) The results of title IV funding under the recipient's current award justify further program activity;

(2) The recipient has promptly submitted all required reports;

(3) The recipient has shown satisfactory progress in achieving the objectives of the project and has met all material terms and conditions of the award; and

(4) The recipient's management practices have provided adequate stewardship of grantor agency funds.

**Terrence S. Donahue,**

*Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.*

[FR Doc. 90–7835 Filed 4–4–90; 8:45 am]

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Federal Register

Vol. 55, No. 66

Thursday, April 5, 1990

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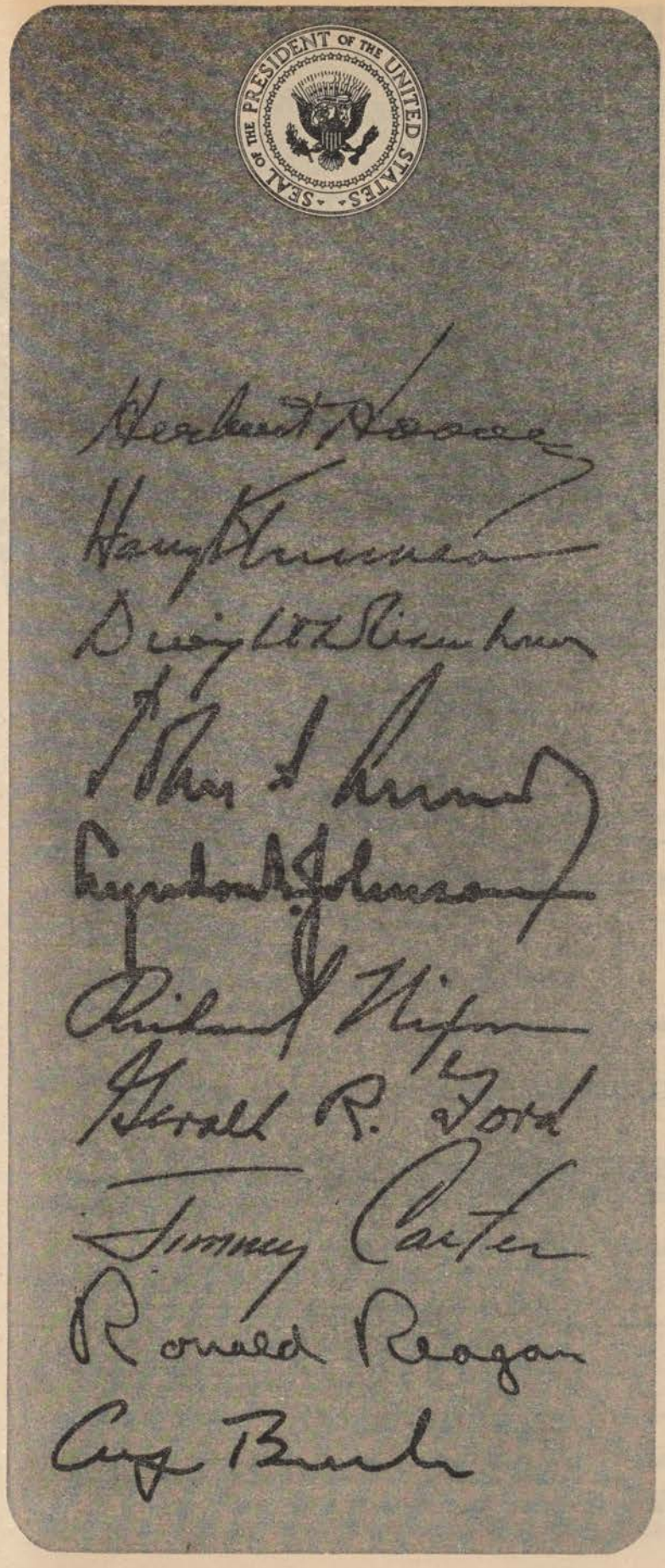


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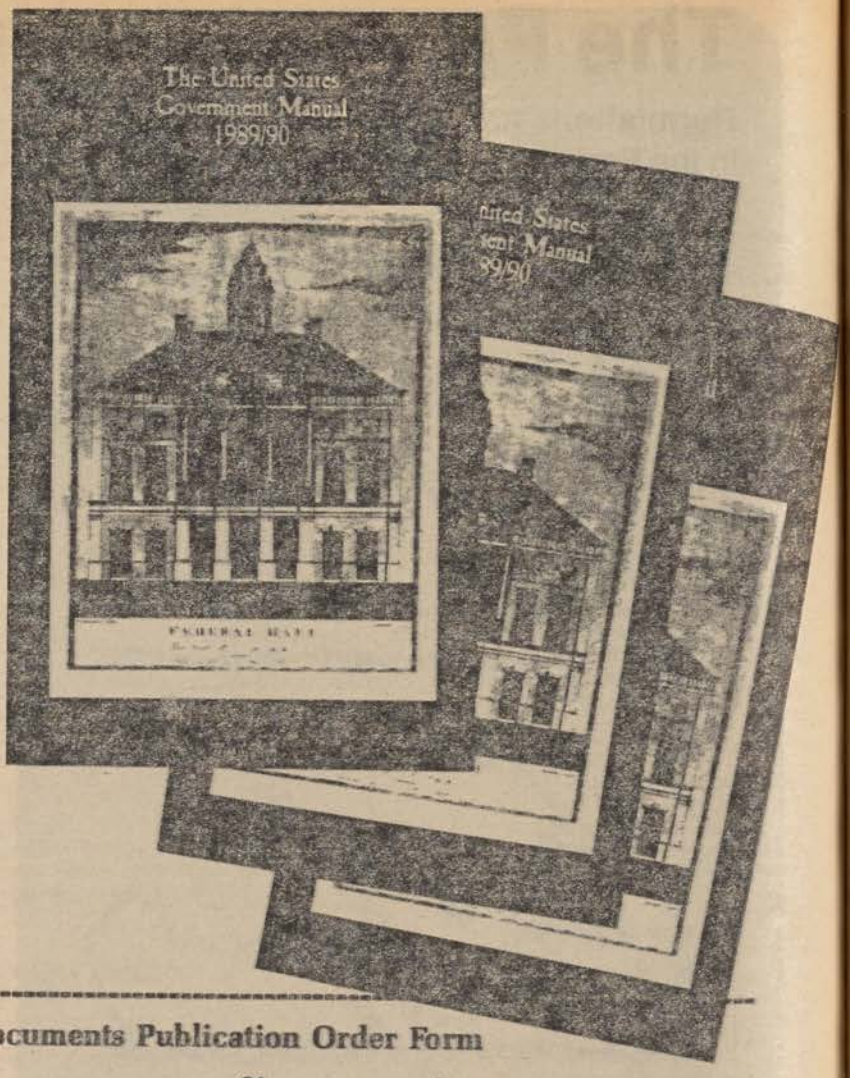


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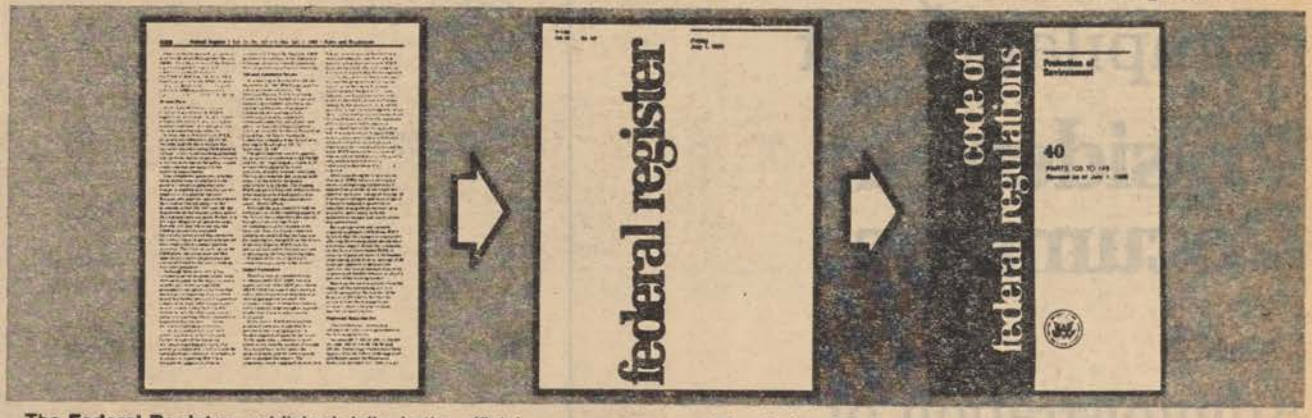


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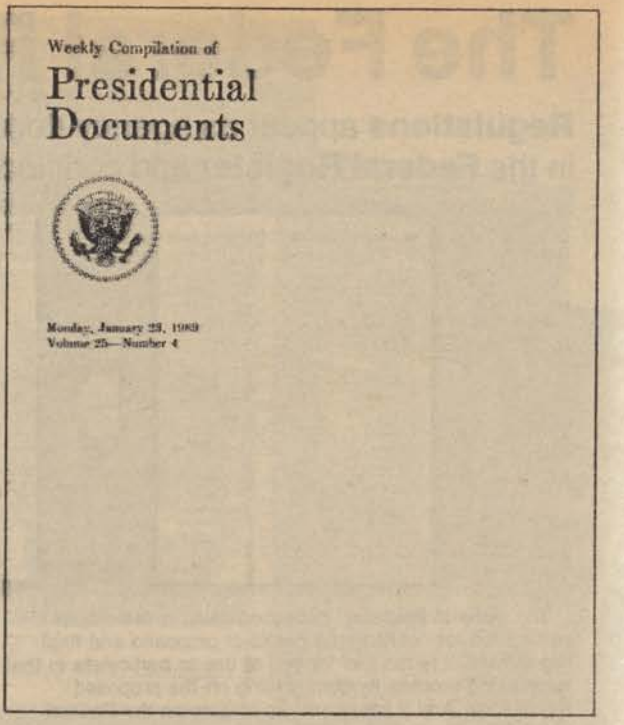


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