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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 90-205]

Mediterranean Fruit Fly; Removal From the Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the Mediterranean fruit fly regulations by removing from the list of quarantined areas in California portions of Los Angeles County near Whittier and Artesia, and the quarantined area in Orange County near Brea. We have determined that the Mediterranean fruit fly has been eradicated from these areas and that the restrictions are no longer necessary. This action relieves unnecessary restrictions on the interstate movement of regulated articles from these areas.

DATES: Interim rule effective October 19, 1990. Consideration will be given only to comments received on or before December 24, 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 Number 90-205. 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: Milton C. Holmes, Senior Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, room 642, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8247.

SUPPLEMENTARY INFORMATION:

Background

The Mediterranean fruit fly, *Ceratitis capitata* (Wiedemann), is one of the world's most destructive pests of numerous fruits and vegetables, especially citrus fruits. The Mediterranean fruit fly (Medfly) can cause serious economic losses. Heavy infestations can cause complete loss of crops, and losses of 25 to 50 percent are not uncommon. The short life cycle of this pest permits the rapid development of serious outbreaks.

We established the Mediterranean fruit fly regulations and quarantined an area in Los Angeles County, California (7 CFR 301.78 *et seq.*; referred to below as the regulations), in a document effective August 23, 1989, and published in the **Federal Register** on August 29, 1989 (54 FR 35629-35635, Docket Number 89-146). We have published a series of interim rules amending these regulations by adding or removing certain portions of Los Angeles, Orange, San Bernardino, and Santa Clara Counties, California, from the list of quarantined areas. Amendments affecting California were made effective on September 14, October 11, November 17, and December 7, 1989; and on January 3, January 25, February 16, March 9, May 9, June 1, August 3, September 6, September 14, September 21, and October 12, 1990 (54 FR 38643-38645, Docket Number 89-169; 54 FR 42478-42480, Docket Number 89-182; 54 FR 48571-48572, Docket Number 89-202; 54 FR 51189-51191, Docket Number 89-206; 55 FR 712-715, Docket Number 89-212; 55 FR 3037-3039, Docket Number 89-227; 55 FR 6353-6355, Docket Number 90-014; 55 FR 9719-9721, Docket Number 90-031; 55 FR 19241-19243, Docket Number 90-050; 55 FR 22320-22323, Docket Number 90-081; 55 FR 32236-32238, Docket Number 90-151; 55 FR 37697-37699, Docket Number 90-175; 55 FR 38529-38530, Docket Number 90-179; 55 FR 39261-39162, Docket Number 90-182; 55 FR 41981-41983, Docket Number 90-199).

Based on insect trapping surveys by inspectors of California State and county agencies and by inspectors of the Animal and Plant Health Inspection Service (APHIS), we have determined that the Medfly has been eradicated from portions of the quarantined area in California in Los Angeles County, near Whittier and Artesia, and in Orange County near Brea. The last finding of Medfly thought to be associated with the infestation in these areas was made on January 24, 1990, in the Whittier area; on May 1, 1990, in the area near Artesia; and on November 17, 1989, in the Brea area. Since then, no evidence of infestations has been found in these areas. We have determined that the Medfly no longer exists in these areas, and we are therefore removing them from the list of areas in § 301.78.3(c) quarantined because of the Mediterranean fruit fly. As a result of this action there are no longer any quarantined areas in Orange County; the Mediterranean fruit fly has been eradicated from this county. Only a portion of Los Angeles County remains quarantined. A description of that area is set forth in full in the rule portion of this document.

Emergency Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that an emergency situation exists that warrants publication of this interim rule without prior opportunity for public comment. The areas in California affected by this document were quarantined due to the possibility that the Mediterranean fruit fly could spread to noninfested areas of the United States. Since this situation no longer exists, and the continued quarantined status of these areas would impose unnecessary regulatory restrictions on the public, we have taken immediate action to remove restrictions from the noninfested areas.

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 to make it effective upon signature. We will consider comments 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 a 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.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

This regulation affects the interstate movement of regulated articles from portions of Los Angeles and Orange Counties in California. Within the regulated area being removed there are approximately 1,118 entities that could be affected, including 175 nurseries, 439 fruit/produce vendors, 12 community gardens, 5 swap meets, 62 commercial growers, 7 farmers market, 194 yard maintenance services, 171 mobile vendors, and 53 miscellaneous (i.e., packing, processing, and dehydrator sites and small backyard sellers).

The effect of this rule on these entities should be insignificant since most of these small entities handle regulated articles primarily for local intrastate movement, not interstate movement, and the distribution of these articles was not affected by the regulatory provisions we are removing.

Many of these entities also handle other items in addition to the previously regulated articles so that the effect, if any, on these entities is minimal. Further, the conditions in the Mediterranean fruit fly regulations and treatments in the Plant Protection and quarantine Treatment Manual, incorporated by reference in the regulations, allowed interstate movement of most articles without significant added costs.

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

The regulations in this subpart contain no new 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 3015, subpart V).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Incorporation by reference, Mediterranean fruit fly, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

Accordingly, 7 CFR part 301 is amended to read as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for 7 CFR part 301 continues to read as follows:

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

2. Section 301.78–3, paragraph (c), is revised to read as follows:

§ 301.78–3 Quarantined areas.

* * * * *

(c) The area described below is designated as a quarantined area: California

Los Angeles County

That portion of the county near Pasadena, El Monte, and Los Angeles areas bounded by a line drawn as follows: Beginning at the intersection of Interstate Highway 210 and Interstate 605; then southerly along Interstate 605 to its intersection with State Highway 60; then westerly along this highway to its intersection with Soto Street; then northeasterly along this street to its intersection with Whittier Boulevard; then westerly along this boulevard to its intersection with 6th Street; then northwesterly along this street to its intersection with Broadway; then southwesterly along Broadway to its intersection with Interstate Highway 10; then westerly along this highway to its intersection with La Brea Avenue; then northerly along this avenue to its intersection with Hollywood Boulevard; then easterly along this boulevard to its intersection with Highland Avenue; then northerly along this avenue to its intersection with U.S. Highway 101; then northeasterly along this highway to its intersection with State Highway 134; then easterly along this highway to its intersection with Interstate Highway 210; then easterly along this highway to the point of beginning.

Done in Washington, DC, this 19 day of October 1990

James W. Glosser,

Administrator, Animal and Plant Health Inspection service.

[FR Doc. 90–25192 Filed 10–24–90; 8:45 am]

BILLING CODE 3410–34–M

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9 CFR Part 78

[Docket No. 90–210]

Brucellosis in Cattle; State and Area Classifications

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Arkansas from Class B to Class A. We have determined that Arkansas now meets the standards for Class A status. This action relieves certain restrictions on the interstate movement of cattle from Arkansas.

DATES: Interim rule effective October 19, 1990. Consideration will be given only to comments received on or before December 24, 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 Number 90–210. 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. John D. Kopec, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, VS, APHIS, USDA, room 729, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–6188.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease affecting animals and man, caused by bacteria of the genus *Brucella.*

The brucellosis regulations contained in 9 CFR part 78 (referred to below as the regulations) provide a system for classifying States or portions of States according to the rate of brucella

infection present, and the general effectiveness of a brucellosis control and eradication program. The classifications are Class Free, Class A, Class B, and Class C. States or areas that do not meet the minimum standards for Class C are required to be placed under Federal quarantine.

The brucellosis Class Free classification is based on a finding of no known brucellosis in cattle for the 12 months preceding classification as Class Free. The Class C classification is for States or areas with the highest rate of brucellosis. Class B and Class A fall between these two extremes. Restrictions on moving cattle interstate become less stringent as a State approaches or achieves Class Free status.

The standards for the different classifications of States or areas entail maintaining (1) a cattle herd infection rate not to exceed a stated level during 12 consecutive months; (2) a rate of infection in the cattle population (based on the percentage of brucellosis reactors found in the Market Cattle Identification (MCI) program—a program of testing at stockyards, farms, ranches, and slaughter establishments) not to exceed a stated level; (3) a surveillance system that includes testing of dairy herds, participation of all slaughtering establishments in the MCI program, identification and monitoring of herds at high risk of infection—including herds adjacent to infected herds and herds from which infected animals have been sold or received, and having an individual herd plan in effect within a stated number of days after the herd owner is notified of the finding of brucellosis in a herd he or she owns; and (4) minimum procedural standards for administering the program.

Before the publication of this interim rule, Arkansas was classified as a Class B State because of its herd infection rate and its MCI reactor prevalence rate. However, after reviewing its brucellosis program records, we have concluded that the State of Arkansas meets the standards for Class A status.

To attain and maintain Class A status, a State or area must (1) not exceed a cattle herd infection rate, due to field strain *Brucella abortus* of 0.25 percent or 2.5 herds per 1,000 based on the number of reactors found within the State or area during any 12 consecutive months, except in States with 10,000 or fewer herds; (2) maintain a 12 consecutive months MCI reactor prevalence rate not to exceed one reactor per 1,000 cattle tested (0.10 percent); and (3) have an approved individual herd plan in effect within 15 days of locating the source herd or recipient herd.

Therefore, we are removing Arkansas from the list of Class B States in § 78.41(c) and adding to the list of Class A States in § 78.41(b). This action relieves certain restrictions on moving cattle interstate from Arkansas.

Immediate Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that there is good cause to publish this interim rule without prior opportunity for public comment. Immediate action is warranted to remove unnecessary restrictions on the interstate movement of cattle from Arkansas.

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 to make it 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.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the status of Arkansas from Class B to Class A reduces certain testing and other requirements governing the interstate movement of cattle from Arkansas. However, cattle from certified brucellosis-free herds moving interstate are not affected by this change.

The principal group affected would be the owners of noncertified herds in Arkansas not know to be affected with brucellosis who seek to sell cattle.

There are an estimated 34,000 herds in Arkansas, most of which are owned by small entities that potentially would be affected by this rule. During fiscal year 1989 Arkansas tested 226,394 eligible cattle at saleyards. We estimate that approximately 12 percent of this testing was done to qualify cattle for interstate movement for purposes other than slaughter. This testing costs approximately $3.50 per head. Since herd sizes vary, larger herds will accumulate more savings than smaller herds. Also, not all herd owners will choose to market their cattle in a way that accrues these costs savings. The overall effect of this rule on small entities should be to provide very small economic benefit.

Therefore, we believe that changing Arkansas's brucellosis status will not significantly affect market patterns, and will not have a significant economic impact on the small entities affected by this interim rule.

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 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 in 9 CFR Part 78

Animal diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

Accordingly, we are amending 9 CFR part 78 as follows:

PART 78—BRUCELLOSIS

1. The authority citation for part 78 continues to read as follows:

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 78.41 [Amended]

2. Section 78.41, paragraph (b) is amended by adding "Arkansas," immediately after "Alabama,".

3. Section 78.41, paragraph (c) is amended by removing "Arkansas,".

Done in Washington, DC, this 19 day of October 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-25193 Filed 10-24-90; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 176

Flathead Irrigation and Power Project, Montana; Revision of Power Rate Schedule

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs (BIA) is publishing a revised power rate schedule pursuant to the provision for the Area Director to provide authority to pass increased power costs on the Flathead Irrigation and Power Project to the customer, as provided for in the November 10, 1982, **Federal Register**, 47 FR 50850, the following changes in 25 CFR part 176, authorized rate increases to become effective on the first billing after December 1, 1990.

This revised rate schedule is required in order to collect sufficient funds to pay for the increased cost of electricity supplied to the Flathead Power Project.

EFFECTIVE DATE: December 1, 1990.

ADDRESSES: Mail or hand deliver comments to Stanley Speaks, Portland Area Director, 911 NE. 11th Avenue, Portland, Oregon 97232-4169.

FOR FURTHER INFORMATION CONTACT: Dirk Borges, Manager, Mission Valley Power, Post Office Box 890, Polson, Montana 59860-0890, (406) 883-5361.

SUPPLEMENTARY INFORMATION: This notice of power rate schedule change is published under the authority delegated by the Secretary of the Interior to the Assistant Secretary (Indian Affairs) in 209 DM 8 and redelegated by the Assistant Secretary to the Area Director.

Pursuant to the provision for the Area Director to provide authority to pass increased power costs on the Flathead Irrigation and Power Project to the customer, as provided in the November 10, 1982, **Federal Register**, Volume 47, No. 218, the following changes in 25 CFR part 176, authorized rate increases to become effective on the first billing after December 1, 1990.

List of Subjects in 25 CFR Part 176

Electric power, Indian-lands, Irrigation: Standard Rate Schedules.

For the reasons set out in the preamble, title 25, chapter I, part 176, of the Code of Federal Regulations, is amended to read as follows:

PART 176—[AMENDED]

1. The authority citation for part 176 continues to read as follows:

Authority: Sec. 7, 62 Stat. 273; 5 U.S.C. 301.

* * * * *

2. Revise 25 CFR 176.51 to read as follows:

§ 176.51 Rate Schedule No. 1: Residential, Urban and Rural.

(a) *Application of schedule.* This schedule is available for single-phase electric service delivered through one meter to a single family residence, either urban or rural, for domestic and farm use, including operation of motors as part of the appliances within the residence, no one of which exceeds 5 horsepower in capacity. The electric service is to be used only on the consumer's own premises, and must not be resold.

(b) *Monthly rate.* 3.954 cents per kilowatt-hour for all kilowatt-hours.

(c) *Basic charge.* (1) $5.00 per month rural.

(2) $3.00 per month within incorporated municipalities.

(3) All kilowatt-hour charges to be in addition to basic charges.

3. Revise 25 CFR 176.52 to read as follows:

§ 176.52 Rate Schedule No. 2: General.

(a) *Application of schedule.* This schedule is available for single-phase or three-phase electric service not exceeding a maximum demand of 20 kilowatts, delivered through one meter, for use in lighting, heating, operating appliances, and as power for motors which do not exceed 5 horsepower in capacity. The electric service is to be used only on the consumer's own premises, and must not be resold. The use of this schedule is required for second delivery to a consumer's installation that is already being served by Rate Schedule No. 1.

(b) *Monthly rate.* (1) 9.854 cents per kilowatt-hour for first 50 kilowatt-hours.

(2) 5.054 cents per kilowatt-hour for next 50 kilowatt-hours.

(3) 4.354 cents per kilowatt-hour for all over 100 kilowatt-hours.

(c) *Minimum bill.* (1) $5.00 per month rural.

(2) $3.00 per month within incorporated municipalities.

4. Revise 25 CFR 176.54 to read as follows:

§ 176.54 Rate schedule No. 4: General.

(a) *Application of schedule.* This schedule is available for single-phase and three-phase electric service for all purposes. Unless specifically permitted by the contract, use must be limited to the consumer's premises, and the power supplied must not be resold. If more than one meter is required by the consumer's installations, or for the consumer's convenience, a separate computation shall be made for each meter.

(b) *Energy.* (1) 3.954 cents per kilowatt-hour for first 18,000 kilowatt hours.

(2) 2.954 cents per kilowatt-hour for all additional kilowatt hours.

(c) *Demand.* $3.60 per kilowatt.

(d) *Discount.* A discount will be allowed and applied after the monthly bill has been computed:

(1) If a customer takes delivery at the primary voltage of the distribution or transmission system of the Project and at a location where the Project has adequate and suitable facilities for such delivery.

(2) If the customer furnishes, installs, operates, and maintains the substation or substations with step-down transformers, protective equipment, and all other facilities (except metering equipment) needed by the customer in distributing and utilizing the delivered power and energy.

(3) When the conditions and specifications in paragraphs (d)(1) and (d)(2) of this section are satisfactory to the Project Engineer, the following discounts apply:

(i) For three-phase delivery at the Project distribution voltage, a discount of 5 percent.

(ii) For three-phase delivery from the Project transmission system where not more than one transformation intervenes between the highest voltage of the Project power system and the delivery to the customer, a discount of 8 percent.

(e) *Minimum bill.* $3.60 per month per kilowatt of billing demand, but not less than $36.00 per month or 40 cents per KVA of transformer capacity.

(f) *Contract demand.* Each contract shall state the number of kilowatts which the customer expects to require and desires to have reserved for his service. This quantity is called the contract demand. The contract demand shall not be less than 10 kilowatts.

(g) *Actual demand.* The actual demand for any month shall be the average amount of power used during that period of 15 consecutive minutes when such average is the greatest for the month as determined by suitable meters, or if meters are unavailable, the actual demand shall be the connected load or such portion of the connected load as the General Manager may determine to be appropriate, based on available information as to the customer's use of connected lights and appliances, or from check metering.

(h) *Billing demand.* The billing demand for a month shall be the contract demand or the actual demand for that month, whichever is the greater.

(i) *Power factor adjustment.* An adjustment for power factor will be made by increasing the billing demand for each month by one (1) percent for one (1) percent or major fraction thereof by which lagging power factor is less than 95.

5. Revise 25 CFR 176.55 (b), (c) (1) and (4) to read as follows:

§ 176.55 Rate schedule No. 5: Irrigation pumping and sprinkling.

* * * * *

(b) *Rate per season or fraction thereof.* (1) $10.30 per horsepower connected:

(2) 2.954 cents per kilowatt-hour for all kilowatt-hours used.

(3) The minimum connected horsepower charge will be $50.00.

(c) *Special terms and conditions.* (1) The minimum annual (seasonal) horsepower charge of $10.30 per connected horsepower shall be paid each year during the life of the contract. Payment shall be required each year before service is connected. If the service has not been connected by the close of the irrigation season, but in no case later than October 15, the minimum annual (seasonal) charge will be assessed.

* * * * *

(4) For a delinquent account to be reconnected, payment of all delinquent bills will be required, plus the estimated energy charge for the coming season, plus the annual seasonal charge of $10.30 per horsepower.

* * * * *

Wilford Bowker,

Acting Portland Area Director.

[FR Doc. 90-25177 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners; Modification of Procedures for Forfeiture of Time Under Parole Supervision; Correction

AGENCY: United States Parole Commission, Justice.

ACTION: Interim general statement of policy; correction.

SUMMARY: The Parole Commission is correcting an error that appeared in the summary of the interim general statement of policy to bring its parole revocation decisions into compliance with *Rizzo* v. *Armstrong*, ____ F.2d ____ (9th Cir. August 30, 1990), a decision holding that the forfeiture of the time that a parole violator has spent under parole supervision ("street time") is discretionary, and not a mandatory penalty under 18 U.S.C. 4210(b)(2) (1976).

FOR FURTHER INFORMATION CONTACT: Pamela Posch, Paralegal Specialist, Office of the General Counsel, U.S. Parole Commission, Telephone (301) 492-5959.

SUPPLEMENTARY INFORMATION: The Parole Commission is correcting an error in regards to the date which appears on page 42184, first column, last sentence in the summary paragraph. The sentence which reads, "This policy will be limited to revocation hearings conducted within the Ninth Circuit after October 15, 1990." is revised to read as follows:

"This policy will be limited to revocation hearings conducted within the Ninth Circuit after October 22, 1990."

Dated: October 22, 1990.

Michael A. Stover,

General Counsel.

[FR Doc. 90-25266 Filed 10-24-90; 8:45 a.m.]

BILLING CODE 4410-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD7 90-96]

Special Local Regulations: Seddon Channel, Hillsborough Bay, Tampa, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: Special local regulations are being adopted for the Tampa Powerboat Classic. This event will be held on Saturday, October 27 and 28, at 10 a.m. e.d.s.t. These regulations are needed to provide for the safety of life on navigable waters during the events.

EFFECTIVE DATES: This regulation becomes effective at 10 a.m. e.d.s.t. and terminates at 4 p.m. e.d.s.t. on 27 and 28 October 1990.

FOR FURTHER INFORMATION CONTACT: QMC J.J. COOK, Coast Guard Group St. Petersburg, FL at (813) 824-7527.

Drafting Information

The drafter of this regulation is QMC J.J. COOK, project officer for Group St. Petersburg.

Discussion of Regulation

This regulation is needed to provide for the safety of participant and spectator boaters and their vessels on the navigable waters during the running of the Tampa Powerboat Classic. There will be approximately 40 racing vessels ranging in length from 13 feet to 17 feet. Seddon Channel will be closed to all marine traffic during the race.

Federalism

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

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

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

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

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

2. A temporary § 100.35-T0796 is added to read as follows:

§ 100.35-T0790. Special local regulations—Tampa Powerboat Classic.

(a) *Regulated Area:* A regulated area is established in Seddon Channel in North Hillsborough Bay between 27-55.9N and 27-56.5N.

(b) *Special Local Regulations:* All vessels are restricted from entering the regulated area. After termination of the Tampa Powerboat Classic, all vessels may resume normal operations.

(c) *Effective Dates:* This regulation becomes effective at 10 a.m. e.d.s.t. and terminates at 4 p.m. e.d.s.t. on 27 and 28 October 1990.

Dated: October 5, 1990.

Robert E. Kramek,

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

[FR Doc. 90-25257 Filed 10-24-90; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[CGD1-90-171]

Safety Zone Regulations: East River, New York, NY

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone in the East River, New York. This Zone is needed to protect the maritime community from the possible dangers and hazards to navigation associated with a fireworks display. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective 6:30 p.m. local time on Oct. 21, 1990. It terminates at 8 p.m. local time on Oct. 21, 1990.

FOR FURTHER INFORMATION CONTACT: MST1 S.T. Whinham of Captain of the Port, New York, (212) 668-7934.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to respond to any potential hazards. This action has been analyzed in accordance with the principle and criteria of E.O. 12612, and it has been determined that the final rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Drafting Information

The drafters of this regulation are LTJG C.W. Jennings, project officer for the Captain of the Port, New York, and LT R.E. Korroch, project attorney, First Coast Guard District Legal Office.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

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

PART 165—[AMENDED]

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

Authority: 33 USC 1225 and 1231; 50 USC 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5.

2. Part 165 is amended by adding section 165.T1171 to read as follows:

§ 165.T1171 Safety zone: East River, New York, NY.

(a) *Location.* The following area has been declared a safety zone: That portion of the Upper Bay and the lower East River bounded by a line drawn from the northwest corner of Pier One (1) Brooklyn west to the northeastern corner of Pier Eighteen (18) Manhattan, thence south along the shoreline to the northeastern end of the Governors Islands Ferry Slip, at Slip Seven (7) Manhattan, thence east to the northwest corner of Pier Five (5) Brooklyn, thence north along the Brooklyn shoreline to the point of origin.

(b) *Effective date.* This regulation becomes effective at 6:30 p.m. local time on Oct. 21, 1990. It terminates at 8 p.m. local time on Oct. 21, 1990.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

Dated: October 5, 1990.

R.M. Larrabee,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 90-25258 Filed 10-24-90; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6805

[AK-932-00-4214-10; A-043400]

Partial Revocation of Public Land Order No. 3324 for Selection of Land by the State of Alaska; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a public land order insofar as it affects 3,850 acres of public land withdrawn for recreation purposes at Lake George, Alaska. The land is no longer needed for the purpose for which it was withdrawn. This action also opens the land for selection by the State of Alaska, if such land is otherwise available. Any land described herein that is not conveyed to the State will be subject to the terms and conditions of withdrawals of record.

EFFECTIVE DATE: October 25, 1990.

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513-7599, 907-271-5477.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), and by section 17(d)(1) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1616(d)(1) (1988), it is ordered as follows:

1. Public Land Order No. 3324 which withdrew public land for a recreation area at Lake George is hereby revoked insofar as it affects the following described land:

Seward Meridian

Beginning at Point No. 1, common with M.C. corner No. 4, U.S. Survey No. 3290, Tract B,
Thence south 7 chains to corner No. 3, U.S. Survey No. 3290, Tract B;
Thence continuing south 13 chains to Point No. 2, the point of beginning;
Thence southeasterly 15 miles, approximately, parallel with the south bank of the Knik River (a strip ¼ mile wide) to a point opposite foot of Knik Glacier;
Thence southerly 7 miles, approximately, continuing in a southerly direction paralleling the river drainage from Lake George (continuing a strip ¼ mile wide) to a point opposite outlet of Lake George;
Thence southwesterly 8 miles, approximately, paralleling west side of Lake George (continuing a strip ¼ mile wide) to southwest inlet of Lake George;
Excluding therefrom a tract of land described as:
Beginning at corner No. 1, common with meander corner No. 4, U.S. Survey No. 3290, Tract B and the true point of beginning for this description;
From Corner No. 1, by metes and bounds,
Thence south 7 chains to corner No. 3, U.S. Survey No. 3290, Tract B and continuing South 13 chains to corner No. 2;
Thence southeasterly on a line approximately 20 chains south of and parallel to the left bank of the Knik River, approximately 501 chains to corner No. 3 located on the east boundary of T. 16 N., R. 3 E., Seward Meridian;
Thence north on the east boundary of T. 16 N., R. 3 E., Seward Meridian, approximately 20 chains to corner No. 4, a meander corner at the line of mean high water on the left bank of the Knik River;
Thence northwesterly along the line of mean high water on the left bank of the Knik River approximately 501 chains to corner No. 1, the point of beginning.
The area described contains approximately 3,850 acres.

2. Subject to valid existing rights, the land described above is hereby opened

to selection by the State of Alaska under either the Alaska Statehood Act of July 7, 1958, 48 U.S.C. prec. 21 (1988), or section 906(b) of the Alaska National Interest Lands Conservation Act, 43 U.S.C. 1635(b) (1988).

3. The State of Alaska selections made under section 906(e) of the Alaska National Interest Lands Conservation Act, 43 U.S.C. 1635(e) (1988), become effective without further action by the State upon publication of this public land order in the **Federal Register**, if such land is otherwise available. Land not conveyed to the State will be subject to the terms and conditions of withdrawals of record.

Dated: October 15, 1990.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-25238 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-JA-M

43 CFR Public Land Order 6806

[OR-943-00-4130-12; GPO-211; OR-19146]

Partial Revocation of the Secretarial Order Dated February 26, 1927; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Secretarial order insofar as it affects 115.47 acres of land withdrawn for the Bureau of Land Management's Powersite Classification No. 170. The Bureau of Land Management has determined that the land is no longer needed for the purpose for which it was withdrawn. The revocation action is needed to permit disposal of the land through land exchange. This action will open the land to surface entry. The land has been and remains open to mineral leasing and is temporarily closed to mining by a land exchange proposal.

EFFECTIVE DATE: November 26, 1990.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order dated February 26, 1927, is hereby revoked insofar as it affects the following described land:

Willamette Meridian

T. 7 S., R. 4 E.,
Sec. 6, lots 6 and 7.

The area described contains 115.47 acres in Clackamas County.

2. The State of Oregon has waived its preference right for public highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

3. At 8:30 a.m., on November 26, 1990, the above described land will be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, any segregations of record, and the requirements of applicable law. All valid applications received at or prior to 8:30 a.m., on November 26, 1990, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Dated: October 16, 1990.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-25240 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-33-M

43 CFR Public Land Order 6807

[OR-943-00-4130-12; GPO-378; WASH-01484]

Partial Revocation of Public Land Order No. 2434; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a public land order insofar as it affects approximately 2 acres of National Forest System land withdrawn for use as a roadside zone. The land is no longer needed for this purpose and the revocation is needed to permit disposal of the land through land exchange. This action will open the land to such forms of disposition as may by law be made of National Forest System land. The land is temporarily closed to mining by a Forest Service exchange proposal. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: November 26, 1990.

FOR FURTHER INFORMATION CONTACT: Linda Sullivan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503-280-7171.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 2434 is hereby revoked insofar as it affects the following described land:

Willamette Meridian

Snoqualmia National Forest

T. 17 N., R. 14 E.,
Sec. 26, that portion of lot 5 lying within 330 feet of the centerline of State Highway 410.

The area described contains approximately 2 acres in Yakima County.

2. At 8:30 a.m., on November 26, 1990, the land shall be opened to such forms of disposition as may by law be made of National Forest System land, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law.

Dated: October 17, 1990.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-25241 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-33-M

43 CFR Public Land Order 6808

[CO-930-01-4214-10; COC-48967]

Withdrawal of National Forest System Land for Protection of Recreational Values; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws approximately 878 acres of National Forest System land from mining for a period of 50 years for the protection of existing and planned recreational facilities at the Buttermilk Ski Area. The land has been and remains open to such forms of disposition as may by law be made of National Forest System land and to mineral leasing.

EFFECTIVE DATE: October 25, 1990.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215-7076, 303-239-3706.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described National Forest System land, which is under the jurisdiction of the Secretary of Agriculture, is hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. ch. 2) to protect existing and planned recreational values which are a part of the Buttermilk Ski Area:

Sixth Principal Meridian

White River National Forest

T. 10 S., R. 85 W.,
Sec. 9, lot 6;
Sec. 10, lots 13, 14, 15, 17, 18, and 22, and SE¼;
Sec. 15, lots 1, 2, 3, and 4, N½NE¼, N½SW¼NE¼, N½SW¼SW¼NE¼, N½NW¼SE¼NE¼, and N½NW¼SW¼;
Sec. 16, lots 1, 2, 3, and 4, E½NW¼NE¼, SW¼NE¼, and NE¼NW¼SE¼.

The area described contains approximately 877.61 acres of National Forest System land in Pitkin County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of National Forest System land under lease, license, or permit, or governing the disposal of its mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 50 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

Dated: October 19, 1990.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-25190 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-JB-M

43 CFR Public Land Order 6809

[AZ-930-4214-10; A-22695]

Withdrawal of National Forest System Lands in Support of a Land Exchange Program; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws, for a period of 20 years, 2,065.06 acres of National Forest System lands from location and entry under the general mining laws in support of the Forest Service's land exchange program. The Forest Service desires to obtain the more remote lands within the forest boundaries, and the town of Payson has a need for a land base which will allow for growth and expansion. The lands have been and will remain open to mineral leasing subject to regulations found in 43 CFR 3101.7.

EFFECTIVE DATE: October 25, 1990.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM, Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, 602-640-5509.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described National Forest System lands are hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. ch. 2) to protect the lands for forest exchange purposes:

Gila and Salt River Meridian

T. 10 N., R. 10 E.,
Sec. 5, Lots 3 and 4, S½NW¼, N½NW¼SW¼, SW¼NW¼SW¼;
Sec. 6, Lots 1 and 2, S½NE¼, N½SE¼, S½S½SW¼SE¼, N½SW¼SE¼SE¼, S½S½SE¼SE¼, NW¼SE¼SE¼SE¼;
Sec. 7, NE¼;
Sec. 8, SW¼NE¼NW¼, NW¼NW¼NW¼, S½NW¼NW¼, SW¼NW¼, W½SE¼NW¼, N½SE¼;
Sec. 9, Lots and 6, E½SW¼NW¼, S½NW¼SE¼NW¼, SW¼SE¼NW¼, W½NE¼SW¼, NW¼SW¼, SW¼SW¼, NW¼SE¼SW¼, S½SE¼SW¼;
Sec. 10, N½SW¼.
T. 11 N., R. 10 E.,
Sec. 27, N½SE¼;
Sec. 28, Lots 2, 3, 6, 7, 8 and 9, S½SW¼;
Sec. 31, Lots 1, 5, 6, 11 and 12, NW¼NE¼;
Sec. 32, Lots 1, 2, 3, 4, 8, 9, 10, 11, 14, 15, 16, and 17, NW¼NE¼;
Sec. 33, Lots 10, 11, and 13; Tracts 38, 39, and 40.

The areas described aggregate 2,065.06 acres of National Forest System lands in Gila County, Arizona.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the National Forest System lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

Dated: October 19, 1990.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-25189 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-32-M

43 CFR Public Land Order 6811

[WY-930-4214-10; WYW 112132]

Transfer of Federal Mineral Estate for the Spook Site; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order permanently transfers 80 acres of Federal mineral estate to the Department of Energy in accordance with the terms of the Uranium Mill Tailings Remedial Action Amendments Act of 1988.

EFFECTIVE DATE: October 25, 1990.

FOR FURTHER INFORMATION CONTACT: Tamara J. Gertsch, Bureau of Land Management, Wyoming State Office, 2515 Warren Avenue, Cheyenne, Wyoming 82001, 307-775-6115.

By virtue of the authority vested in the Secretary of the Interior by section 106 of the Uranium Mill Tailings Radiation Control Act of 1978, as amended by the Uranium Mill Tailings Remedial Action Amendments Act of 1988, 42 U.S.C. 7916(2)(F), it is ordered as follows:

1. Subject to valid existing rights, the following described Federal mineral estate is hereby permanently transferred to the Department of Energy for the Spook Site, and as a result of this transfer, this mineral estate is no longer subject to the operation of the mining and mineral leasing laws:

Sixth Principal Meridian

T. 38 N., R. 73 W.,
Sec. 27, W½W½SW¼NW¼;
Sec. 28, SE¼NE¼, N½NE¼SE¼, SE¼NE¼SE¼.

The area described contains 80 acres of Federal mineral estate in Converse County.

2. The transfer of the above described Federal mineral estate to the Department of Energy vests in that Department the full management jurisdiction, responsibility, and liability for such subsurface estate and all activities conducted thereon, except as provided in paragraph 3.

3. The Secretary of the Interior shall retain the authority to administer any existing claims, rights, and interests in this land and in the subsurface mineral estate that were established before the effective date of the transfer.

Dated: October 19, 1990.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-25230 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-22-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-507; RM-6946]

Radio Broadcasting Services; Breaux Bridge, LA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 243C3 for Channel 243A at Breaux Bridge, Louisiana, and modifies the construction permit for Channel 243A to specify operation on Channel 243C3. The Notice was issued in response to a petition filed by JBC, Inc. *See* 54 FR 48655, November 11, 1989. The coordinates for Channel 243C3 are 30–13–00 and 92–05–00.

EFFECTIVE DATE: December 6, 1990.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–507, adopted September 27, 1990, and released October 22, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Louisiana, is amended by removing Channel 243A and adding Channel 243C3 at Breaux Bridge.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–25268 Filed 10–24–90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-364; RM-6796, RM-7158]

Radio Broadcasting Services; Plantersville and Pawley's Island, SC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Carocom Media, dismisses its request to allot Channel 253A to Plantersville, South Carolina, and instead allots Channel 253A to Pawley's Island, South Carolina, as its second local FM service. *See* 54 FR 35706, published August 29, 1989. Channel 253A can be allotted to Pawley's Island in compliance with the Commission's minimum distance separation requirements with a site restriction of 6.7 kilometers northeast to avoid a short-spacing to Station WWKT–FM, Channel 252A, Kingstree, South Carolina, and to the pending applications for Channel 255C2 at McClellanville, South Carolina. The coordinates for this allotment are North Latitude 33–29–18 and West Longitude 79–05–32. With this action, this proceeding is terminated.

DATES: Effective December 6, 1990. The window period for filing applications will open on December 7, 1990, and close on January 7, 1991.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–364, adopted September 27, 1990, and released October 22, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments under South Carolina, is amended by adding Channel 253A at Pawley's Island.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–25269 Filed 10–24–90; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB38

Endangered and Threatened Wildlife and Plants; Endangered Status Determined for the Fish Cahaba Shiner (Notropis Cahabae)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the Cahaba shiner (*Notropis cahabae*) to be an endangered species. The Cahaba shiner is found only in Alabama in about 60 miles (formerly 76 miles) of the Cahaba River in Perry, Bibb and Shelby Counties, with the stronghold of the population restricted to 15 river miles. The Cahaba shiner is vulnerable to adverse habitat alteration from residential, industrial, and commercial development because of its restricted range and occurrence in small, scattered populations.

EFFECTIVE DATE: November 26, 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, 6578 Dogwood View Parkway, Suite A, Jackson, Mississippi 39213.

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

SUPPLEMENTARY INFORMATION:

Background

The Cahaba shiner (*Notropis cahabae*) is a small delicate bodied, silvery colored shiner about 2.5 inches (6.35 centimeters) long with a peach colored narrow stripe over the dark lateral stripe. The species was described in 1989 (Mayden and Kuhajda 1989). The Cahaba shiner differs from the mimic shiner (*N. volucellus*) (a closely related species) by a lateral stripe that does not expand before the caudal spot, the absence of a predorsal dark blotch, the dorsal caudal peduncle scales are uniformly dark and pigmented and predorsal scales broadly outlined and diffuse (Mayden and Kuhajda 1989).

The Cahaba shiner has been collected in Alabama in about 76 miles (121 km) of the Cahaba River from 3 miles (4.8 km) northeast of Heiberger in Perry County to Highway 52 bridge near Helena in Shelby County (Ramsey 1982, Pierson *et al.* 1989a). Ramsey (1982) speculates that the Cahaba shiner had a wider historical distribution that possibly included the Coosa River. The present known range of about 60 miles (96 km) extends from 3 miles (4.8 km) northeast of Heiberger (Pierson *et al.* 1989a) to 3.75 miles (2.34 km) above Booth Ford (Howell *et al.* 1982). This range reduction of over 20 percent occurred between 1969 and 1977 (Ramsey 1982). Further reductions in total populations are evident, with the stronghold for the species now limited to about 15 river miles between the Fall Line and Piper Bridge or 20 percent of the historic range.

The habitat of the Cahaba shiner appears to be large shoal areas of the main channel of the Cahaba River. The species is found in the quieter waters less than 1.64 feet (0.5 meters) deep just below swift riffle areas (Howell *et al.* 1982). The Cahaba shiner seems to prefer patches of sandy substrate at the edge of or scattered throughout gravel beds or downstream of larger rocks and boulders. Many different types of habitats have been surveyed by ichthyologists to identify Cahaba shiner habitat. Ramsey (1982) searched large tributaries of the Cahaba River and small rivers of the upper Mobile River system. Howell *et al.* (1982) stated that the Cahaba shiner did not occupy deep water habitats or any other sites other than that of large, shallow shoals. The Cahaba shiner is found in streams with a stable riparian zone and water quality parameters of 11° to 29°C, 5 to 10 milligrams/liter dissolved oxygen, 7.2 to 8.9 pH, and 4 to 375 Jackson Turbidity Units. It probably requires a river with sufficient small crustaceans, insect larvae, and algae for food, similar to its close relative, the mimic shiner (Gilbert and Burgess 1980).

The Cahaba shiner seems consistent with other fish in the mimic shiner group, spawning much later than do other North American cyprinids. They appear to spawn from late May through June and seem to have a more limited spawning period than do many fish which reach a rather small adult size. Pre-spawning aggregations have been observed at the tail of a long pool, in a moderate current at 1.2 to 2.0 feet (0.36 to 0.61 meters) depth, just before the current quickened at the head of the main riffle (Ramsey 1982).

Of 56 collection records from 1958 through 1985, 22 records were collections of single specimens and 30 other records were collections of less than 15 specimens. These few collections resulted from at least 260 collections of 46,000 specimens of fish using nine different techniques over a 27 year period (Howell *et al.* 1982, Ramsey 1982; Stiles 1978; Howell, personal communication 1982; Pierson, *in litt.* 1984; Stiles, personal communication 1985). In addition, Ramsey (1982) used six associates of the Cahaba shiner as indicator species to identify collections for examination from over nine river systems in at least seven museums. No Cahaba shiners were found in any of these collections.

In more recent sampling, Stiles (1990) collected at known population sites for the Cahaba shiner in 1989 and 1990. In February and March 1989, sampling at the mouths of tributaries under the most favorable collecting conditions, he captured from one to nine Cahaba shiners at three of four sites. During September and October 1989, he sampled six sites on the mainstem, including the usually productive site at Bibb County Highway 27, and did not capture any Cahaba shiners. A series of six collections were made near Little Ugly Creek during January to March 1990 under conditions and at sites that have yielded the largest numbers of Cahaba shiners. From two to six Cahaba shiners were captured in five of the six collections. In comparing the results of Stiles' 1989–90 sampling with historic collections, the decreasing population trend is evident. Within the stronghold of the species, Stiles captured an average of 3.2 Cahaba shiners as compared with an average of 38.5 during the period of 1981–86. The ratio of Cahaba shiners to the closely related and more widespread mimic shiner in the earlier sampling was about 1 to 1. In Stiles' recent survey, the ratio was about 16 mimic shiners to each Cahaba shiner. In addition to the change in ratio, the abundance of both species has decreased, with the Cahaba shiner possibly the less adaptable of the two species.

The limited range, scattered populations, and low numbers of the Cahaba shiner have been known since its discovery (Miller 1972, Ramsey *et al.* 1972, Ramsey 1976, Stiles 1978, Howell *et al.* 1982, Ramsey 1982, Ramsey 1986). O'Neil (1983) and the Environmental Impact Statement for the Cahaba River Wastewater Facilities, Jefferson, Shelby, and St. Clair Counties, Alabama (U.S. Environmental Protection Agency 1979) identified past, present, and future water quality problems in the Cahaba River. Water quality impacts have apparently extirpated the blue shiner (*N. caeruleus*) from the Cahaba River (Pierson and Krotzer 1987) and reduced the historic range of the Cahaba shiner by over 20 percent. The Cahaba shiner appears to have specialized habitat requirements and is vulnerable to adverse changes in its environment.

A proposal to list the Cahaba shiner as endangered was published in the **Federal Register** on November 29, 1977 (42 FR 60765). A notice that extended the comment period and provided a date for a public hearing was published on February 6, 1978 (43 FR 4872). Following the public hearing on March 15, 1978, the Service published a critical habitat correction and again extended the comment period on April 7, 1978 (43 FR 14697). The 1978 Endangered Species Act Amendments required the withdrawal of any rule that was not finalized within 1 year of the Amendments' enactment. In accordance with the Amendments, the still pending proposal to list the Cahaba shiner was withdrawn, effective November 29, 1979, and announced in the **Federal Register** on January 24, 1980 (45 FR 5782). Among new information that has been received since the proposal was withdrawn are two studies contracted by the Service. Dr. Mike Howell (Howell *et al.* 1982) was contracted to survey the Cahaba River for this species from Booth Ford to Trussville. The Alabama Geological Survey, under contract, conducted an historical water quality analysis of the Cahaba River above Centreville (O'Neil 1983). Other data received since the 1977 proposal are status reports by Ramsey (1982), Stiles (1978) and Pierson *et al.* (1989a, 1989b). The Cahaba shiner was again proposed as endangered in the **Federal Register** (55 FR 10083) on March 19, 1990. A notice of public hearing and reopening of the comment period was published in the **Federal Register** (55 FR 24133) on June 14, 1990, and the public hearing was held on July 10, 1990.

A petition dated January 22, 1990, was received by the Service from Mr. Ned Mudd, Jr., requesting that the Service protect the Cahaba shiner as an endangered species and also designate critical habitat. However, the petition was not accepted since it represented a request for action on which the Service had in essence already reached a decision, as reflected in the content of this final rule.

Summary of Comments and Recommendations

In the March 19, 1990, 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. The comment period was reopened and extended until July 20, 1990, to accommodate the public hearing. Appropriate Federal and State agencies, county governments, scientific and conservation organizations, and other interested parties were contacted and requested to comment. A newspaper notice was published in the *Montgomery Advertiser* on April 6, 1990, and the *Birmingham News* on April 8, 1990. The newspaper notice of the public hearing and reopening of the comment period was published in the *Birmingham News* on June 24, 1990. A total of 455 comments and a petition with 289 signatures were received on the proposed rule. Two Federal agencies commented, with one in support and one expressing no position. Two State agencies commented in support of the proposed rule. There were six comments from local government agencies expressing concerns about the proposed rule, but none opposed it. Seven comments were received from conservation organizations in support of the rule. Four professional ichthyologists commented in support of the proposed rule. Thirty individuals commented on the need to protect the Cahaba River without specifically mentioning the Cahaba shiner. The remaining 404 comments were from individuals in support of the proposed rule as was the petition with 289 signatures.

A public hearing was requested by the Environmental Economics Committee of the Birmingham Chamber of Commerce, the Birmingham Water Works and Sewer Board, and the Jefferson County Commission. The hearing was held at the Dwight Beeson Hall Auditorium on the campus of Samford University, Birmingham, Alabama, on July 10, 1990, with 83 attendees. Comments were received from 25 individuals following a statement by the Service. Representatives from one State and two local government agencies commented without expressing a position on the proposed rule. Fifteen conservation organization representatives, six individuals and one professional ichthyologist commented in support of the proposed rule. A question and answer session resulted in only three questions, with only one of these pertaining directly to the Cahaba shiner.

Written comments and oral statements presented at the public hearing and received during the comment periods are covered in the following summary. Comments of a similar nature or point are grouped into a number of general issues. These issues and the Service's response to each, are discussed below.

Issue 1: The Cahaba shiner warrants emergency listing. Response: Based upon all available information, the Service does not believe the Cahaba shiner requires emergency listing. There has been no data provided to the Service to indicate this species is in immediate danger of extinction. The shiner is surviving in low numbers in portions of its historical range, as it has over the past decade or more. It is expected to remain relatively stable for the immediate future. This negates the need for emergency protection.

Issue 2: List the Cahaba shiner as a threatened species. Response: Based upon communication with the Alabama Wildlife Federation, these commenters were using language provided to them in error. According to the Federation, the intent of the commenters was to list the species as proposed, rather than downlist it. Endangered status was chosen for reasons discussed elsewhere in this rule.

Issue 3: Critical habitat should be designated. Response: The basis for not determining critical habitat is discussed in that section.

Issue 4: Some data relative to sewage treatment plants is outdated. Response: The Service has corrected the data in this rule based upon information provided by various commenters.

Issue 5: Improve water quality standards for the Cahaba River. Response: Water quality standards are determined by the Environmental Protection Agency and various State agencies.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Cahaba shiner 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 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 Cahaba shiner (*Notropis cahabae*) are as follows:

A. *The present or threatened destruction, modification or curtailment of its habitat or range.* Degradation of water quality in the Cahaba River has and continues to have the greatest adverse impact to the Cahaba shiner. Howell *et al.* (1982), during their study of the upper Cahaba River, observed adverse impacts to water quality from the Cahaba and Patton Creek Sewage Treatment Plants, limestone quarries on Buck Creek, and strip-mining in the area of Piney Woods Creek and Booth Ford. Historic populations of the Cahaba shiner have been seriously affected by urbanization, sewage pollution, and strip-mining activities in the upper Cahaba River Basin. Observations in the Howell *et al.* (1982) report and other reports that increased pH levels from limestone quarries and high inorganic nitrogen levels are apparently not adversely affecting the water quality of the Cahaba River and the Cahaba shiner have been demonstrated to be incorrect. This is evidenced by the continued decrease in the range and population of the Cahaba shiner.

Ramsey (1982) in his study of the Cahaba River observed an increase in blue-green algae, an indicator of water quality degradation, at several localities since he began collecting on the Cahaba River in 1962. One location in particular, just below the Shelby County Highway 52 bridge, has been adversely affected by a diminution of riverweed, apparently displaced by a substantial growth of blue-green algae on much of the rock and rubble substrate. This has resulted in the extirpation of Cahaba shiners, goldline darters, and blue shiners from this area since 1969. The effect on the fauna of water rich in dissolved nutrients can be magnified in still pools during low flows and high temperatures when dissolved oxygen drops to low levels. Virtually all of the water flow in the Cahaba River below the Cahaba Sewage Treatment Plant during low flows consists of treated sewage effluent until augmented by tributaries downstream.

Siltation from construction, agriculture, forestry, and strip-mining activities can have an adverse effect on water quality. Recent fish collections in the Cahaba River have shown a significant decrease in species diversity and numbers of specimens with an apparent increase in siltation (Howell *et al.* 1982, Ramsey 1982, Pierson and Krotzer 1987, Pierson *et al.* 1989a, Stiles 1990). Water quality degradation has apparently contributed to the extirpation of the blue shiner from the Cahaba River and the reduction in range and population of the Cahaba shiner. Collections at Booth Ford have shown a significant decrease in species diversity and numbers of specimens (Stiles 1978).

Because of the number of sewage treatment plants within the Cahaba River system, chlorination could have an

adverse impact on the Cahaba shiner. Observations by Ramsey (1982) of Cahaba shiners in aquaria indicate it is possibly more sensitive to chlorine than other *Notropis* species. There are efforts ongoing to dechlorinate some wastewater prior to release. This will undoubtedly be beneficial to the Cahaba shiner, provided the species used for toxicity monitoring are similarly susceptible to chlorine. In that regard, the use of the fathead minnow (*Pimephales promelas*) as the toxicity test species is questionable. The fathead minnow is acknowledged as a hardy species and likely more tolerant to toxicity than the Cahaba shiner. For the dechlorination effort to have maximum benefit to the Cahaba shiner, a more appropriate test species would be the mimic shiner.

The Environmental Impact Statement for the Cahaba River Wastewater Facilities, Jefferson, Shelby, and St. Clair Counties, Alabama, (U.S. Environmental Protection Agency 1979) identified and projected water quality problems in the Cahaba River. Relatively high levels of total inorganic nitrogen and total phosphorus were found at several locations through the basin. Algal biomass, increased production, high diurnal oxygen fluctuations, and decreased oxygen were found at lower water depths. The U.S. Environmental Protection Agency (EPA) found there was not enough water flow in the Cahaba River to handle sewage needs and that alternative water supplies to increase flow could have an adverse effect on the biota.

At the time of the EPA study there were 4 municipal wastewater treatment plants and 13 private wastewater treatment systems in the study area. The proposed rule for listing the Cahaba shiner stated that the Patton Creek Sewage treatment plant contributes nutrients to and affects the Cahaba River below the mouth of Patton Creek. That was an error. Sewage flow from the Patton Creek plant was diverted to the Cahaba River plant in December 1987, and the Patton Creek plant was shutdown. The Cahaba River plant has been upgraded to tertiary treatment. While this is certainly an improvement, the upgrade of the Cahaba River plant has not eliminated all the problems. Sewage that has received tertiary treatment is still high in nutrients and can contribute to eutrophication of an aquatic system. This plant is designed for 12 million gallons per day and receives an average of 9 million gallons per day. During periods of heavy inflows, i.e. rainfall, etc., the capacity of the plant is exceeded and sewage bypasses some treatment stages (Leigh Pegues, Alabama Department of Environmental Management, *in litt.*). Since the improvements in December 1987, there have been 14 reportable periods of time when some sewage bypassed the treatment at the Cahaba River plant. These reportable periods were of 1 to 14 days duration with an estimated bypass of 520 million gallons of raw sewage. This periodic addition of organic matter to the Cahaba River from the Cahaba Wastewater Treatment Plant and other smaller wastewater treatment systems continues many of the problems identified by the EPA report, albeit at a reduced scale. Further EPA findings included 55 coal and iron surface mined areas, 22 deep mines, and 15 open pit mines and mine tailings that may contribute to siltation of the Cahaba River. While some of the EPA findings have been corrected, the Cahaba shiner has declined as a result of these impacts and continues to be affected by many of them.

Methane gas extraction is of considerable interest in the Cahaba River Basin. The Alabama Department of Environmental Management (ADEM) has issued three permits for the discharge of wastewater into the Cahaba River from methane gas wells. One of these permits has been returned to ADEM as a result of a permit violation, and neither of the other permittees are currently discharging wastewater (Tim Forester, Alabama Department of Environmental Management, pers. comm. 1990). Available information indicates the Cahaba shiner can tolerate the permitted chloride levels. However, the potential for the discharge of wastewater from these wells in excess of permitted levels and the impact on the Cahaba shiner is of concern. The impact of other pollutants that may be in wastewater from methane gas wells is unknown.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* According to Ramsey (1982), incidental take and occasional collecting are not considered to have a bearing on the Cahaba shiner's status. However, when a population is stressed by other factors, the removal of individuals under any circumstances becomes more significant.

C. *Disease or predation.* No adverse impacts from this factor are documented in the literature. However, the Cahaba shiner is a prey species for larger fish and when the population is stressed by other factors, the removal of individuals by predation or disease becomes more significant.

D. *The inadequacy of existing regulatory mechanisms.* The species is not given any special consideration under Federal environmental law when project design and potential impacts are considered. The determination of endangered status will provide that special consideration. Scientific Collectors Permits are required by the State of Alabama to collect Cahaba shiners for scientific purposes. Enforcement of this requirement is difficult.

E. *Other natural or manmade factors affecting its continued existence.* Approximately 700 specimens (one collection of 370) of the Cahaba shiner were collected from 1958 through 1985 in 56 collections (Ramsey 1982; Howell *et al.* 1982; Howell, personal communication 1982; Stiles, personal communication 1985; Pierson, *in litt.*). Of these 56 collections, 22 were of single specimens and all but 4 of the remaining collections contained fewer than 15. These low numbers of specimens and few successful collection localities illustrate the species' low abundance despite intensive collection effort. Stiles' (1990) more recent collecting documents a continuing decline in the population of this uncommon species.

The low numbers, scattered populations, restricted range, and unusually limited spawning interval (Ramsey 1982) of the Cahaba shiner make this species especially susceptible to any natural or manmade factors that adversely affect it. As the range is reduced, the populations become more scattered and isolated. This isolation increases the difficulty of successful reproduction and lessens the probability of genetic exchange between populations. As genetic diversity is reduced, the ability of a species to adapt to adversity is also reduced. As successful reproduction becomes more difficult, the susceptibility to environmental perturbation increases. The reduced population of the Cahaba shiner in those areas that have historically produced good numbers may be the effect of increased siltation and other environmental degradation acting synergistically with consecutive years of abnormally low rainfall to impact the ability of this species to reproduce (Stiles 1990).

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 Cahaba shiner as endangered, defined under the Act as being in danger of extinction

throughout all or a significant portion of its range. This preferred action is chosen due to the restricted range, scattered populations, low numbers, unusual biological traits, and water quality problems. 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 a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for this species. All involved Federal and State agencies are aware of the existence of this species in the Cahaba River and the importance of protecting its habitat. The designation of critical habitat will not provide significant net benefits to the Cahaba shiner above and beyond species listing when combined Federal and State protections are considered. Any activity in the Cahaba River Basin that is within or upstream of the range of the Cahaba shiner that adversely affects this species will be carefully reviewed. Protection of this species' habitat will 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, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of 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.

Federal involvement is expected to include the Environmental Protection Agency in consideration of the Clean Water Act's provision for pesticides registration, and waste management actions. The Corps of Engineers will include this species in project planning and operation and during the permit review process. The Federal Highway Administration will consider impacts of bridge and road construction at points where known habitat is crossed. Urban development within the drainage basin may involve the Farmers Home Administration and their loan programs.

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

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

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 H. Stewart (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Public Law 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under "FISHES", 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						
FISHES							
*	*	*	*	*	*		
Shiner, Cahaba	*Notropis cahabae*	U.S.A. (AL)	Entire	E	405	NA	NA
*	*	*	*	*	*		

Dated: October 12, 1990.

Bruce Blanchard,

Acting Director, Fish and Wildlife Service.

[FR Doc. 90-25215 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 683

[Docket No. 900497-0256]

RIN 0648-AD40

Western Pacific Bottomfish Fisheries

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

ACTION: Final rule.

SUMMARY: NOAA issues this final rule as an addition to the regulations implementing the Fishery Management Plan for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region (FMP). The rule makes it a Federal requirement that catch and effort data for all bottomfish be reported to the State of Hawaii, the Territory of American Samoa, and the Territory of Guam in compliance with the respective laws and regulations of each area. The intended effect of this action is to improve the ability of NMFS, American Samoa, Guam, and Hawaii to monitor all catches of bottomfish and seamount groundfish management unit species (BMUS). This rule will foster cooperative enforcement efforts between NMFS, the U.S. Coast Guard, and the state/territorial enforcement agents to ensure compliance with catch reporting requirements without imposing additional Federal data collection rules.

EFFECTIVE DATE: November 26, 1990.

FOR FURTHER INFORMATION CONTACT: Svein Fougner, Fisheries Management Division, Southwest Region, Terminal Island, California (213–514–6660), or Alvin Katekaru, Pacific Area Office, Honolulu, Hawaii, (808–955–8831).

SUPPLEMENTARY INFORMATION: The bottomfish and seamount groundfish fisheries in the western Pacific are managed by the Fishery Management Plan for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region (FMP). As long as the data collection and catch reporting systems of the State of Hawaii, and the Territories of American Samoa and Guam provide the Secretary of Commerce (Secretary) with adequate statistical information necessary for management, no Federal reports are required of domestic fishermen or processors engaged in the bottomfish and seamount groundfish fisheries of the U.S. Exclusive Economic Zone (EEZ). The proposed rule published on July 3, 1990 (55 FR 27479), explains that the existing systems of the State of Hawaii (mandatory reporting), American Samoa (voluntary reporting at present) and Guam (voluntary reporting at present) are the most comprehensive depositories of catch and effort data available on the BMUS. These local systems have weaknesses due to inadequate reporting of catch information by domestic fishermen. The intended long-term effect of this proposed rule is: (a) To facilitate improved monitoring and assessment of the bottomfish and seamount groundfish fisheries; (b) to evaluate the impacts of possible catch restrictions upon the BMUS within the outside the EEZ; (c) to develop and refine measurable indicators for monitoring the status of stocks of BMUS; and (d) to regulate the domestic fishing fleet to diminish gear conflicts. This action is consistent with the objective of the FMP to improve the data base for future decisions through data reporting requirements and cooperative programs between Federal and state/territorial agencies.

There are no foreseeable environmental or economic effects from implementing this regulatory change because the action is not expected to affect the amount of BMUS harvested, or the species composition of the catch, or the time and location of fishing activity. This is an administrative action which should have no effect on marine resources, ocean and coastal habitats, or public health and safety. No additional Federal reporting requirements will be imposed as long as the data collection and reporting systems operated by the

State and Territories continue to provide the Secretary with statistical information adequate for management. It is the intent of NMFS to build upon existing state, territorial, and NMFS data collection systems to obtain data needed by the Western Pacific Fishery Management Council (Council) to effectively monitor the fisheries. The long-term effects from this action are expected to be a better understanding of bottomfish and seamount fish stocks and fisheries, and an increase in the knowledge necessary to manage the domestic fishery. This action should result in improved compliance by domestic fishermen with state and territorial fish catch reporting requirements.

Public Comments

Comments were received from the Hawaii Department of Land and Natural Resources (DLNR) and the Guam Division of Aquatic and Wildlife Resources supporting the action. No negative comments were received.

Classification

The final rule is published under authority of section 305(g) of the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* (Magnuson Act) and was prepared at the request of the Council. The Assistant Administrator for Fisheries, NOAA, (Assistant Administrator) has determined that this rule is necessary for the conservation and management of the bottomfish and seamount groundfish resources of the western Pacific region and that it is consistent with the Magnuson Act and other applicable law.

The Assistant Administrator has determined that the final rule falls within a categorical exclusion from the requirements of the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*, by NOAA Directive 02-10, because it would not result in any significant change from the status quo and because the reporting of landings data is routine with limited potential for affecting the human environment. This action should result in providing an effective means of obtaining better reporting of catches by fishermen in compliance with state and territorial laws and regulations.

The Assistant Administrator also has determined that it is not a major rule requiring a regulatory impact analysis under Executive Order 12291. This action will not have a cumulative effect on the economy of $100 million or more nor will it result in a major increase in costs to consumers, industries, government agencies, or geographical regions. No significant adverse impacts are anticipated on competition, employment, investments, productivity, innovation, or competitiveness of U.S.-based enterprises.

The General Counsel of the Department of Commerce has certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 603 *et seq.*, because it does not create any additional burdens. As a result, a regulatory flexibility analysis was not prepared.

This final rule does not contain new collection-of-information requirements subject to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

The Assistant Administrator has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of American Samoa, Guam, and Hawaii. This determination was submitted for review to the responsible state and territorial agencies under section 307 of the Coastal Zone Management Act. The agencies failed to comment within the statutory time period.

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

List of Subjects in 50 CFR Part 683

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: October 19, 1990.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 683 is amended as follows:

PART 683—WESTERN PACIFIC BOTTOMFISH AND SEAMOUNT GROUNDFISH FISHERIES

1. The authority citation for 50 CFR part 683 continues to read as follows:

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

2. In § 683.4, a new paragraph (c) is added to read as follows:

§ 683.4 Recordkeeping and reporting.

* * * * *

(c) Any person who is required to do so by the applicable State laws and regulations, shall make and/or file any and all reports of bottomfish and seamount groundfish landings, containing all data and in the exact manner, required by the applicable State laws and regulations.

§ 683.6 [Amended]

3. In section 683.6, paragraph (g), "§ 683.11" is revised to read "§ 683.4 (b) and (c)."

§ 683.11 [Removed]

4. Section 683.11 is removed.

[FR Doc. 90-25217 Filed 10-24-90; 8:45 am]
BILLING CODE 3510-22-M

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50 CFR Part 685

[Docket No. 900498-0257]

RIN 0648-AD41

Pelagic Fisheries of the Western Pacific Region

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

ACTION: Final rule.

SUMMARY: NOAA issues this final rule as an addition to the regulations implementing the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (FMP). The rule makes it a Federal requirement that catch and effort data for pelagic management unit species (PMUS) be reported to the State of Hawaii, the Territory of American Samoa, and the Territory of Guam in compliance with the respective laws and regulations of each area. The intended effect of this action is to improve the ability of NMFS, American Samoa, Guam, and Hawaii to monitor catch and effort of the PMUS. This rule will foster cooperative enforcement efforts between NMFS, the U.S. Coast Guard, and the state/territorial enforcement agents to ensure compliance with catch reporting requirements without imposing any additional Federal data collection rules.

EFFECTIVE DATE: November 26, 1990.

FOR FURTHER INFORMATION CONTACT: Svein Fougner, Fisheries Management Division, Southwest Region, Terminal Island, California (213-514-6660), or Alvin Katekaru, Pacific Area Office, Honolulu, Hawaii, (808-955-8831).

SUPPLEMENTARY INFORMATION: Fisheries for billfish and associated species in the western Pacific are managed by the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region. As long as the data collection and catch reporting systems of the State of Hawaii, and the Territories of American Samoa and Guam provide the Secretary of Commerce (Secretary) with adequate statistical information necessary for management, no Federal reports are

required of domestic fishermen or processors engaged in the fisheries of the U.S. Exclusive Economic Zone (EEZ). The proposed rule published on July 3, 1990 (55 FR 27481), explains that the existing data systems of the State of Hawaii (mandatory reporting), American Samoa (voluntary reporting at present) and Guam (voluntary reporting at present) are the most comprehensive depositories of catch and effort data available on billfish and other migratory fish. These local systems have weaknesses due to inadequate reporting of catch information by domestic fishermen. The intended long-term effect of the final rule is: (a) To improve monitoring and assessment of the pelagic fisheries; (b) to evaluate the impacts of possible catch restrictions upon the PMUS within and outside the EEZ; (c) to develop and refine measurable indicators for monitoring the status of stocks of pelagic fish; and (d) to regulate the domestic fishing fleet to diminish gear conflicts. This action is consistent with Objective 9 of the FMP to improve the statistical base for better stock assessments, and for making better decisions to conserve and manage highly migratory resources throughout their range in the Pacific Ocean.

There are no foreseeable environmental or economic effects from implementing this regulatory change because the action is not expected to affect the amount of PMUS harvested, or the species composition of the catch, or the time and location of fishing activity. This is an administrative action that will have no impact upon marine resources, ocean and coastal habitats, or public health and safety. It is the intent of NMFS to build upon existing state, territorial, and NMFS data collection systems to obtain data needed by the Western Pacific Fishery Management Council (Council) to effectively monitor the pelagic fisheries and achieve the goals and objectives of the FMP. The long-term effects for this action are expected to be a better understanding of pelagic fish stocks and fisheries, and increase in the quality of the knowledge necessary to manage the domestic fisheries. This action should result in improved compliance by domestic fisherman with state and territorial catch reporting requirements

Public Comments

Comments were received from the Hawaii Department of Land and Natural Resources (DLNR) and the Guam Division of Aquatic and Wildlife Resources supporting the action. DLNR also pointed out a typographical error in the summary (last sentence) section of the proposed rule published on July 3, 1990. The sentence erroneously indicated that additional Federal data collection requirements would be imposed as a result of the proposed action. No negative comments were received.

Classification

The final rule is published under authority of section 305(g) of the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* (Magnuson Act) and was prepared at the request of the Council. The Assistant Administrator for Fisheries, NOAA, (Assistant Administrator) has determined that this rule is necessary for the conservation and management of the pelagic resources of the western Pacific region and that it is consistent with the Magnuson Act and other applicable law.

The Assistant Administrator has determined that the final rule falls within a categorical exclusion from the requirements of the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*, by NOAA Directive 02-10, because it would not result in any significant change from the status quo and because the reporting of landings data is routine with limited potential for effect on the human environment.

The Assistant Administrator also has determined that this is not a major rule requiring a regulatory impact analysis under Executive Order 12291. The final rule will not have a cumulative effect on the economy of $100 million or more nor will it result in a major increase in costs to consumers, industries, government agencies, or geographical regions. No significant adverse impacts are anticipated on competition, employment, investments, productivity, innovation, or competitiveness of U.S.-based enterprises.

The General Counsel of the Department of Commerce has certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 603 *et seq.*, because it does not create any additional burdens. As a result, a regulatory flexibility analysis was not prepared.

This final rule does not contain new collection-of-information requirements subject to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

The Assistant Administrator has determined that the final rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of American Samoa, Guam, and Hawaii. This determination was submitted for review to the responsible state and territorial agencies under section 307 of the Coastal Zone Management Act. The agencies failed to comment within the statutory time period.

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

List of Subjects in 50 CFR Part 685

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: October 19, 1990.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 685 is amended as follows:

PART 685—PELAGIC FISHERIES OF THE WESTERN PACIFIC REGION

1. The authority citation for part 685 continues to read as follows:

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

2. In § 685.4 the current text is designated paragraph (a) and a new paragraph (b) is added to read as follows:

§ 685.4 Recordkeeping and reporting.

* * * * *

(b) Any person who is required to do so by the applicable State laws and regulations shall make and/or file any and all reports of billfish and associated species landings, containing all data and in the exact manner, required by the applicable State laws and regulations.

3. In § 685.5, a new paragraph (d) is added to read as follows:

§ 685.5 Prohibitions.

* * * * *

(d) Falsify or fail to make and/or file any and all reports of billfish and associated species landings, containing all data and in the exact manner, required by the applicable State laws and regulations, as specified in § 685.4(b), provided that the person is required to do so by the applicable State laws and regulations.

[FR Doc. 90-25216 Filed 10-24-90; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 207
Thursday, October 25, 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 Parts 1007, 1093, 1094, 1096, and 1108

[Docket No. AO-366-A31, etc.; DA-90-020]

Milk in the Georgia and Certain Other Marketing Areas; Hearing on Proposed Amendments to Tentative Marketing Agreement and Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

In the matter of:

	Marketing area	Docket Nos.
7 CFR Part:		
1007	Georgia	AO-366-A31
1093	Alabama-West Florida.	AO-386-A9
1094	New Orleans-Mississippi.	AO-103-A51
1096	Greater Louisiana.	AO-257-A38
1108	Central Arkansas	AO-242-A41

SUMMARY:

This hearing is being held to consider proposals by five cooperative associations and two dairy processors to amend the above-listed Federal milk marketing orders. A proposal by Dairymen, Inc.; Associated Milk Producers, Inc.; Gulf Coast Dairymen's Association; Gulf Dairy Association; and Southern Milk Sales, Inc., would merge the marketing areas of the Georgia, Alabama-West Florida, New Orleans-Mississippi and Greater Louisiana milk orders into a single marketing area. The provisions of the proposed "Gulf States" order are patterned after the Alabama-West Florida order with some modifications. Such modifications include the producer-handler definition, the use of a seasonal Class III price, and some price restructuring including a reduction in the Class I price of seven cents per hundredweight in southern Louisiana.

Land-O-Sun Dairies, Inc., proposed that producers deliver at least six days' production to pool plants in order to divert milk to nonpool plants as producer milk during the months of seasonally short production. Malone & Hyde Dairy, Nashville, Tennessee proposed a modification of the merged order affecting the zoning of the marketing area, the producer milk definition, and plant location adjustments for handlers. Associated Milk Producers, Inc., proposed that the Central Arkansas order be revised to continue pooling status for a distributing plant located in the marketing area that has greater sales in another order unless the Class I price at such plant location under the other order is greater than the Class I price at such location under the "Gulf States" milk order.

DATES: The hearing will convene at 1 p.m., local time on December 17, 1990.

ADDRESSES: The hearing will be held at the Atlanta Airport Hilton, 1031 Virginia Avenue, Atlanta, GA 30354, (404) 767-9000.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P. O. Box 96456, Washington, DC 20090-6456, (202) 447-2089.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Atlanta Airport Hilton, 1031 Virginia Avenue, Atlanta, GA 30354, (404) 767-9000, beginnign at 1 p.m., local time on December 17, 1990, with respect to proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the aforesaid specified marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

Actions under the Federal milk order program are subject to the Regulatory Flexibility Act (Pub. L. 96-354). This Act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purposes of the Act, a dairy farm is a "small business" if it has an annual gross revenue of less than $500,000, and dairy products manufacturer is a "small business" if it has fewer than 500 employees. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

Interested parties who wish to introduce exhibits should provide the Presiding Officer at the hearing with four copies of such exhibits for the Official Record. Also, it would be helpful if additional copies are available for the use of other participants at the hearing.

Proposal No. 1, a proposal to combine the Georgia, Alabama-West Florida, New Orleans-Mississippi and Greater Louisiana marketing areas under one order, raises the issue of whether the provision set forth in that proposal would tend to effectuate the declared policy of the Act if they are applied to the proposed merged marketed area, and, if not, what modifications of the provisions would be appropriate.

The issues raised by proposal No. 1 include whether the declared policy of the Act would tend to be effectuated by:

(a) Merger of one or more of the marketing areas, or any combination of marketing areas for separate or combined orders which include part or all of the areas presently defined in the respective orders; and

(b) Adoption of any of the proposed provisions, or appropriate modifications thereof, for any separate order or any combination of such orders including a review of the appropriate pricing and pooling provisions of the orders whether separate or in any combination.

The proposed merger of orders as specified in Proposal No. 1 also raises

the issue of the appropriate disposition of the producer-settlement funds, marketing service funds, and administrative funds accumulated under the Georgia, Alabama-West Florida, New Orleans-Mississippi and Greater Louisiana milk orders.

List of Subjects in 7 CFR Parts 1007, 1093, 1094, 1096 and 1108

Milk marketing orders.

The authority citation for 7 CFR parts 1007, 1093, 1094, 1096, 1108 continues to read as follows:

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

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Dairymen Inc.; Associated Milk Producers, Inc.; Gulf Coast Dairymen's Association; Gulf Dairy Association; and Southern Milk Sales, Inc.:

Proposal No. 1:

Merge the marketing areas of the Georgia (part 1007), Alabama-West Florida (part 1093), New Orleans-Mississippi (part 1094), and Greater Louisiana (part 1096) milk orders to form a "Gulf States" marketing area (part 1093) with terms and provisions as follows:

PART 1093—MILK IN GULF STATES MARKETING AREA

Subpart—Order Regulating Handling

General Provisions

§ 1093.1 General provision.

The terms, definitions, and provisions in part 1000 of this chapter are hereby incorporated by reference and made a part this order.

Definitions

§ 1093.2 Gulf States marketing area.

The "Gulf States marketing area" hereinafter called the "marketing area" means all territory within the boundaries of the following Alabama, Florida, Georgia and Mississippi counties and Louisiana parishes, including all piers, docks, and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed counties or parishes:

Zone 1

Alabama Counties

Cherokee, Colbert, Cullman, DeKalb, Franklin, Jackson, Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall, Morgan and Winston.

Georgia Counties

Bartow, Cherokee, Dawson, Floyd, Forsyth, Gilmer, Gordon, Habersham, Hall, Lumpkin, Pickens, Towns, Union, and White.

Mississippi Counties

Alcorn, Benton, Itawamba, Lee, Pontotoc, Prentiss, Tippah, Tishomingo and Union.

Zone 2:

Alabama Counties

Blount, Calhoun, Clay, Cleburne, Etowah, Fayette, Jefferson, Lamar, Randolph, St. Clair, Shelby, Talledega, and Walker.

Georgia Counties

Banks, Barrow, Butts, Carroll, Clarke, Clayton, Cobb, Coweta, DeKalb, Douglas, Elbert, Fayette, Franklin, Fulton, Greene, Gwinnet, Harolson, Hart, Heard, Henry, Jackson, Jasper, Lamar, Lincoln, Madison, Meriwether, Morgan, Newton, Oconee, Oglethorpe, Paulding, Pike, Polk, Putnam, Rockdale, Spalding, Stephens, Taliaferro, Troup, Walton, and Wilkes.

Mississippi Counties

Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Clay, Coahoma, Grenada, Leflore, Lowndes, Monroe, Montgomery, Oktibbeha, Quitman, Sunflower, Tallahatchie, Webster, and Yalobusha.

Zone 3:

Alabama Counties

Autauga, Bibb, Chambers, Chilton, Coosa, Elmore, Greene, Hale, Lee, Macon, Perry, Pickens, Russell, Tallapoosa, and Tuscaloosa.

Georgia Counties

Baldwin, Bibb, Burke, Chattahoochee, Columbia, Crawford, Glascock, Hancock, Harris, Houston, Jefferson, Jones, Macon, Marion, McDuffie, Monroe, Muscogee, Peach, Richmond, Schley, Talbot, Taylor, Twiggs, Upson, Warren, Washington, and Wilkinson.

Mississippi Counties

Attala, Holmes, Humphreys, Noxubee, Washington, and Winston.

Zone 4:

Alabama Counties

Barbour, Bullock, Choctaw, Dallas, Lowndes, Marengo, Montgomery, Sumter, and Wilcox.

Georgia Counties

Ben Hill, Bleckley, Bulloch, Candler, Clay, Crisp, Dodge, Dooly, Effingham, Emanuel, Evans, Jeff Davis, Jenkins, Johnson, Laurens, Lee, Montgomery, Pulaski, Quitman, Randolph, Screven, Stewart, Sumter, Tattnall, Telfair, Terrell, Toombs, Turner, Treutlen, Webster, Wheeler, and Wilcox.

Louisiana Parishes

Bienville, Bossier, Caddo, Caldwell, Claiborne, De Soto, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Red River, Richland, Tensas, Union, Webster, West Carroll and Winn.

Mississippi Counties

Claiborne, Clarke, Copiah, Hinds, Issaquena, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Rankin, Scott, Sharkey, Simpson, Smith, Warren, and Yazoo.

Zone 5:

Alabama Counties

Butler, Clarke, Coffee, Conecuh, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Monroe, Pike and Washington.

Georgia Counties

Appling, Atkinson, Bacon, Baker, Berrien, Brantley, Brooks, Bryan, Calhoun, Camden, Charlton, Chatham, Clinch, Coffee, Colquitt, Cook, Decatur, Dougherty, Early, Echols, Glynn, Grady, Irwin, Lanier, Liberty, Long, Lowndes, McIntosh, Miller, Mitchell, Pierce, Seminole, Thomas, Tift, Ware, Wayne, and Worth.

Louisiana Parishes

Avoyelles, Catahoula, Concordia, Grant, La Salle, Natchitoches, Rapides, Sabine and Vernon.

Mississippi Counties

Adams, Amite, Covington, Forrest, Franklin, Greene, Jefferson, Jefferson Davis, Jones, Lamar, Lawrence, Lincoln, Marion, Perry, Pike, Walthall, Wayne and Wilkinson.

Zone 6:

Alabama Counties

Baldwin, Escambia and Mobile.

Florida Counties

Escambia, Okaloosa, Santa Rosa and Walton.

Louisiana Parishes

East Feliciana, St. Helena, St. Tammany, Tangipahoa, Washington and West Feliciana.

Mississippi Counties

George, Hancock, Harrison, Jackson, Pearl River and Stone.

Zone 7:

Louisiana Parishes

Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, Evangaline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, Terrebonne, Vermilion and West Baton Rouge.

§ 1093.3 Route disposition.

Route disposition means a delivery to a retail or wholesale outlet (except to a plant) either directly or through any distribution facility (including

disposition from a plant store, vendor or vending machine) of a fluid milk product classified as Class I milk.

§ 1093.4 Plant.

Plant means the land, buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products, including filled milk, are received, processed, or packaged. Separate facilities without stationary storage tanks that are used only as a reload point for transferring bulk milk from one tank truck to another or separate facilities used only as a distribution point for storing packaged fluid milk products in transit for route disposition shall not be a plant under this definition.

§ 1093.5 Distributing plant.

Distributing plant means a plant that is approved by a duly constituted regulatory agency for the handling of Grade A milk and at which fluid milk products are processed or packaged and from which there is route disposition in the marketing area during the month.

§ 1093.6 Supply plant.

Supply plant means a plant that is approved by a duly constituted regulatory agency for the handling of Grade A milk and from which fluid milk products are transferred during the month to a pool distributing plant.

§ 1093.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) A distributing plant from which during the month there is:

(1) Total route disposition, except filled milk, equal to 50 percent or more of the total quantity of Grade A fluid milk products, except filled milk, physically received at such plant or diverted therefrom pursuant to § 1093.13; and

(2) Route disposition, except filled milk, in the marketing area is at least the lesser of a daily average of 1,500 pounds or 10 percent of the total quantity of fluid milk products, except filled milk, physically received or diverted therefrom pursuant to § 1093.13.

(b) A supply plant from which fluid milk products are transferred to pool distributing plants. Such transfers, in excess of receipts by transfer from pool distributing plants, must equal not less than 60 percent in each of the months of August through December, and 40 percent in each of the months of January through July, of the total quantity of Grade A milk that is received during the month from dairy farmers (including producer milk diverted from the plant pursuant to § 1093.13 but excluding milk diverted to such plant) and handlers described in § 1093.9(c).

(c) A plant operated by a cooperative association if pool plant status under this paragraph is requested for such plant by the cooperative association and during the month producer milk of members of such cooperative association is delivered directly from farms to pool distributing plants or is transferred to such plants as a fluid milk product from the cooperative's plant. Such deliveries, in excess of receipts by transfer from pool distributing plants, must equal not less than 60 percent of the total producer milk of such cooperative association in each of the months of August through December, and 40 percent of such milk in each of the months of January through July. The plant's pool plant status shall be subject to the following conditions:

(1) The plant does not qualify as a pool plant under paragraph (a) or (b) of this section or under the provisions of another Federal order applicable to a distributing plant or a supply plant; and

(2) The plant is approved by a duly constituted regulatory agency to handle Grade A milk.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) An exempt plant as defined pursuant to § 1093.8(e) (1) or (2);

(3) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area;

(4) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition in such other marketing area and from which there is a greater quantity of route disposition, except filled milk, in this marketing area than such other marketing area but the plant is, nevertheless, fully regulated under such other Federal order; and

(5) A plant qualified pursuant to paragraph (b) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under such other order than are made to plants regulated under this part, or such plant has automatic pooling status under such other order.

§ 1093.8 Nonpool plant.

Nonpool plant means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants ar further defined as follows:

(a) *Other order plant* means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) *Producer-handler plant* means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) *Partially regulated distributing plant* means a nonpool plant that is not an other order plant, a producer-handler plant or a exempt plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) *Unregulated supply plant* means a supply plant that does not qualify as a pool supply plant and is not an other order plant, a producer-handler plant, or a governmental agency plant.

(e) *Exempt plant* means a plant:

(1) Operated by a governmental agency from which fluid milk products are distributed in the marketing area. Such plant shall be exempt from all provisions of this part; or

(2) Which has monthly route disposition of 100,000 pounds or less during the month. Such plant will be exempt from the pricing and pooling provisions of this order. However, such handler must file periodic reports as prescribed by the market administrator to enable determination of the exempt status of such handler.

§ 1093.9 Handler.

Handler means:

(a) Any person who operates one or more pool plants;

(b) Any cooperative with respect to producer milk which it causes to be diverted pursuant to § 1093.13 for the account of such cooperative association;

(c) Any cooperative association with respect to milk that receives for its account from the farm of a producer for delivery to a pool plant of another handler in a tank truck owned and operated by, or under the control of, such cooperative association, unless both the cooperative association and the operator of the pool plant notify the market administrator prior to the time that such milk is delivered that the plant operator will be handler of such milk and will purchase such milk on the basis of weights determined from its

measurement at the farm and butterfat tests determined from farm bulk tank samples. Milk for which the cooperative association is the handler pursuant to this paragraph shall be deemed to have been received by the cooperative association at the location of the pool plant to which such milk is delivered;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person who operates an other order plant described in § 1093.7(d);

(g) Any person who operates an unregulated supply plant; and

(h) Any person who operates an exempt plant.

§ 1093.10 Producer-handler.

Producer-handler means a person who is engaged in the production of milk and also operates a plant from which during the month fluid milk products, except filled milk, is disposed of only direct to consumers through home delivery retail routes or through a retail store located on the same property as the plant, and who has been so designated by the market administrator upon the market administrator's determination that all the requirements of this section have been met, and that none of the conditions therein for cancellation of such designation exists. All designations shall remain in effect until cancelled pursuant to paragraph (c) of this section.

(a) *Requirements for designation.* (1) The producer-handler has an exercises (in such persons's capacity as a handler) complete and exclusive control over the operation and management of a plant at which milk is processed and received from the milk production resources and facilities of such handler (designated as such prusuant to paragraph (b)(1) of this section, the operation and management of which are under the complete and exclusive control of the producer-handler (in that person's capacity as a dairy farmer).

(2) The producer-handler neither recieves at such designated milk production resources and facilities nor receives, handles, processes or distributes at or through any of such person's milk handling, processing or distributing resources and facilities (designated as such pursuant to paragraph (b)(2) of this section) milk products for reconstitution into fluid milk products, or fluid milk products derived from any source other than:

(i) Such person's designated milk production resources and facilites,

(ii) Pool plants within the limitation specified in paragraph (c)(2) of this section, or

(iii) Nonfat milk solids which are used to fortify fluid milk products.

(3) The producer-handler is neither directly nor indirectly associated with the business or management of, nor has financial interest in another handler's operation; nor is any other handler so associated with the producer-handler's operation.

(4) The producer-handler is neither directly nor indirectly associated with the business or management of, nor has financial interest in another producer's operation (in this or any Federal order).

(5) Designation of any person as a producer-handler following a cancellation of such person's prior designation shall be preceded by performance in accordance with paragraphs (a)(1), (2), (3) and (4) of this section for a period of one month.

(b) *Resources and facilities.* Designation of a person as a producer-handler shall include the determination and designation of the milk production, handling, processing and distribution resources and facilities, all of which shall be deemed to constitute an integrated operation, as follows:

(1) As milk production resources and facilities: All resources and facilities (milking herd(s), buildings housing such herd(s), and the land on which such buildings are located) used for the production of milk:

(i) Which are directly, indirectly or partially owned, operated or controlled by the producer-handler;

(ii) In which the producer-handler in any way has an interest including an contractual arrangement; and

(iii) Which are directly, indirectly, or partially owned, operated or controlled by any partner or stockholder of the producer-handler.

(2) As milk handling, processing and distribution resources and facilities: All resources and facilities (including store outlets) used for handling, processing and distributing any fluid milk product:

(i) Which are directly, indirectly or partially owned, operated or controlled by the producer-handler;

(ii) In which the producer-handler in any way has an interest including any contractual arrangement, or with respect to which the producer-handler directly or indirectly exercises any degree of management or control.

(c) *Cancellation.* The designation as a producer-handler shall be cancelled under any of the conditions set forth in paragraph (c) (1) and (2) of this section or upon determination by the market administrator that any of the requirements of paragraphs (a) (1), (2), (3) and (4) of this section are not continuing to be met. Such cancellation is to apply to any month in which the requirements are not met, or the conditions for cancellation occurred.

(1) Milk from the designated production resources and facilities of the producer-handler is delivered in the name of another person as producer milk to another handler under this or any other Federal order.

(2) The producer-handler handles fluid milk products derived from sources other than designated milk production facilities and resources, with the exception of purchases from pool plants in the form of fluid milk products which does not exceed the lessor of 5 percent of the producer-handler's Class I disposition during the month or 5,000 pounds.

(d) *Public announcement.* The market administrator shall publicly announce the name, plant location and farm location(s) of persons designated as producer-handler, of those whose designations have been cancelled and the effective dates of producer-handler status or loss of producer-handler status of each.

(e) *Burden of establishing* and maintaining producer-handler status. The burden rests upon the handler who is designated as a producer-handler to establish through records required pursuant to § 1093.5 of this chapter that the requirements set forth in paragraph (a) of this section have been and are continuing to be met, and that the conditions set forth in paragraph (c) of this section for cancellation do not exist.

§ 1093.11 [Reserved]

§ 1093.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk is:

(1) Received at a pool plant directly from such producer;

(2) Received by a handler described in § 1093.9(c); or

(3) Diverted from a pool plant in accordance with § 1093.13.

(b) *Producer* shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by such person whose milk is delivered to an exempt plant, excluding producer milk diverted to such exempt plant pursuant to § 1093.9(d);

(3) Any person with respect to milk produced by such person which is diverted to a pool plant from an other order plant if the other order plant designates such person under the order

as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1093.44(a)(8)(iii)and the corresponding step of § 1093.44(b);

(4) Any person with respect to milk produced by such person which is reported as directed to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order; or

(5) Any person with respect to milk produced by him during the months of January through July that is caused to be delivered to a pool plant by a cooperative association or a pool plant operator if during the immediately preceding months of August through December more than one-fifth of the milk from the same farm was caused by such cooperative association or pool plant operator to be delivered to plants as other than producer milk (except milk that is not producer milk as a result of a temporary loss of grade A approval or the application of § 1093.13(e) (5), (6), and (7), unless such pool plant was a nonpool plant during any of such immediately preceding months.

§ 1093.13 Producer milk.

Producer milk means the skim milk and butterfat contained in milk of a producer that is:

(a) Received at a pool plant directly from such producer by the operator of the plant;

(b) Received by a handler described in § 1093.9(c); or

(c) Diverted from the pool plant to the pool plant of another handler. Milk so diverted shall be deemed to have been received at the location of the plant to which diverted; and

(d) Divered by the operator of a pool plant or cooperative association to a nonpool plant that is not a producer-handler plant, subject to the following conditions:

(1) In any month of January through July, not less than four days; production of the producer whose milk is diverted is physically received at a pool plant during the month;

(2) In any month of August through December, not less than ten days; production of the producer whose milk is diverted is physically received at a pool plant during the month;

(3) The total quantity of milk so diverted during any month by a cooperative association shall not exceed 30 percent of the producer milk that the cooperative association caused to be delivered to, and is physically received at, pool plants during the month;

(4) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (d)(3) of this section. The total quantity of milk so diverted during any month shall not exceed 30 percent of the producer milk physically received at such plant during the month;

(5) Any milk diverted in excess of the limits prescribed in paragraphs (d) (3) and (4) of this section shall not be producer milk. The diverting handler shall designate the dairy farmer deliveres that will not be producer milk pursuant to paragraph (d) (3) and (4) of this section. If the handler fails to make such designation, no milk diverted by such handler shall be producer milk;

(6) To the extent that it would result in nonpool status for the plant from which diverted, milk diverted for the account of a cooperative association from the pool plant of another handler shall be be producer milk;

(7) The cooperative association shall designate the dairy farmer deliveries that are not prducer milk pursuant to paragraph (c)(6) of this section. If the cooperative association fails to make such designation, no milk diverted by it to a nonpool plant shall be producer milk.

(8) Diverted milk shall be priced at the location of the plant to which diverted.

§ 1093.14 Other source milk.

Other source milk means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1093.40(b)(1) from any source other than producers, a handler described in § 1093.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1093.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1093.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1093.40(b)(1)) for which the handler fails to establish a disposition.

§ 1093.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1093.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent of more butterfat, with or without the addition of other ingredients.

§ 1093.17 Filled milk.

Filled milk means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1093.18 Cooperative association.

Cooperative association means any cooperative marketing association of producers which the Secretary determines after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and be engaged in making collective sales of or marketing milk or milk products for its members.

§ 1093.19 [Reserved]

§ 1093.20 Product prices.

The following prices shall be used in calculating the basic Class II formula price:

(a) *Butter Price. "Butter price"* means the simple average, for the first 15 day-

of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar Cheese Price. "Cheddar cheese price"* means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat Dry Milk Price. "Nonfat dry milk price"* means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this secton for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible Whey Price. "Edible whey price"* means the simple average for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday, except national holidays.

Handler Reports

§ 1093.30 Reports of receipts and utilization.

On or before the 5th day after the end of the month (if postmarked), or not later than the 7th day if the report is delivered in person to the office of the market administrator, each handler shall report for such month to the market administrator, in the detail and on forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of its pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1093.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of each month of fluid milk products and products specified in § 1093.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1093.9 (b) and (c) shall report:

(1) The quantities of skim milk and butterfat contained in receipts from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to its receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1093.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1093.9 (a), (b), and (c) shall report to the market administrator its producer payroll for such month, in detail prescribed by the market administrator, showing for each producer:

(1) Such producer's name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk;

(4) The price per hundredweight, the gross amount due, the amount and nature of any deduction, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1093.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1093.32 Other reports.

(a) Each handler described in § 1093.9 (a), (b) and (c) shall report to the market administrator on or before the 7th day after the end of each month of February through June the aggregate quantity of base milk received from producers during the month, and on or before the 20th day after the end of each month of February through June the pounds of base milk received from each producer during the month.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1093.30 and 1093.31, each handler shall report such information as the market administrator deems necessary to verify or establish each handler's obligation under the order.

Classification of Milk

§ 1093.40 Classes of utilization.

Except as provided in § 1093.42, all skim milk and butterfat required to be reported pursuant to § 1093.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Disposed of in the form of buttermilk or buttermilk mix, regardless of the nonmilk solids content of such product, used in and labeled for the commercial (or foodservice) production of biscuits, or for other bakingpurposes, except buttermilk or buttermilk mix defined as a fluid milk product pursuant to § 1093.15(c).

(5) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, and Creole cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed all metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, dry curd cottage cheese, and Creole cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated or condensed milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section.

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1093.15; and

(6) In shrinkage assigned pursuant to § 1093.41(a) to the receipts specified in § 1093.41(a)(2) and in shrinkage specified in § 1093.41 (b) and (c).

§ 1093.41 Shrinkage.

For the purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1093.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraphs (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraphs (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product.

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1093.9(c), except that if the operator of the plant to which the milk is delivered purchased such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchased such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amount of skim milk and butterfat to which percentages are applied in paragraphs (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1093.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1093.42 Classification of transfers and diversions.

(a) *Transfers and Diversions to Pool Plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or transferred in the form of a bulk fluid cream product from

a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1093.44(a)(12) or the corresponding step of § 1093.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1093.44(a)(7) or the corresponding step of § 1093.44(b), the skim milk or butterfat so transferred, shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-plant or diverter-plant received during the month other source milk to be allocated pursuant to § 1093.44(a) (11) or (12) or the corresponding steps of § 1093.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant or divertee-plant.

(b) *Transfers and Diversions to Other Order Plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or transferred in the form of a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category and described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be Class I subject to adjustment when such information is available;

(5) For purposes of this paragraph if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to the class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1093.40.

(c) *Transfers to Producer-Handlers and Transfers and Diversions to Exempt Plants.* Skim milk or butterfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to an exempt plant shall be classified:

(1) As Class I milk if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and Diversions to Other Nonpool Plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant, or a governmental agency plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or transferred in the form of a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraphs (d)(2)(i)(*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraphs (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in such handler's report of receipts and utilization filed pursuant to § 1093.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plant fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plants from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plants from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be classified to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

(e) *Tranfers by a Handler Described In* § 1093.9(c) To Pool Plants. Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1093.9(c) to another handler's pool plant shall be classified pursuant to § 1093.44 pro rata with producer milk received at the transferee-handler's plant.

§ 1093.43 General classification rules.

In determining the classification of producer milk pursuant to § 1093.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1093.30 and shall compute separately for each pool plant, and for each cooperative association with respect to milk for which it is the handler pursuant to § 1093.9 (b) or (c) that was not received at a pool plant, the pounds of skim milk and butterfat, respectively, in each class in accordance with § 1093.40, 1093.41, and 1093.42. The combined pounds of skim milk and butterfat so determined in each class for a handler described in § 1093.9(b) or (c) shall be such handler's classification of producer milk;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by the handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1093.9(b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1093.44 Classification of producer milk.

For each month the market administrator shall determine for each handler described in § 1093.9(a) for each pool plant of the handler separately the classification of producer milk and milk received from a handler described in § 1093.9(c), by allocating the handler's receipts of skim milk and butterfat to the utlization of such receipts by such handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1093.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from another order plant, except that to be subtracted pursuant to (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1093.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II.

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1093.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or fluid cream product) that is used to produce, or added to, any product specified in § 1093.40(b)(1), but not in excess of the pounds of skim milk remaining in Class II.

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1093.40(b)(1) that were not subtracted pursuant to paragraphs (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under any Federal milk order and from an exempt plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from another order plant that is fully regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraphs (a)(8)(ii)(*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased

(increasing as necessary Class III then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased in like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount;

(*a*) Multiply by 1.25 the sum of the pound of skim milk remaining in Class I at this allocation step at all pool plant of the handler (excluding and duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler;

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1093.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1093.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraphs (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and then from Class III combined being subtracted first from Class III and then from Class II, the pounds of skim in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plant shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant that were not subtracted pursuant to paragraphs (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraphs (a)(12)(ii), (iii) and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1093.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and the Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such

excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case the pounds of skim milk remaining in each class at this allocation step at the handlers other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1093.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk and milk received from a handler described in § 1093.9(c), subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk and milk received from a handler described in § 1093.9(c) in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1093.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1093.44(a)(12) and the corresponding step of § 1093.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of reciepts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from another order plant, the class to which such receipts are allocated pursuant to § 1093.44 on the basis of such report, and, thereafter, any change required to correct errors disclosed in the verification of such report.

(c) Furnish each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to another order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the percentage of producer milk delivered by members of such association that was used in each class by each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

Class Prices

§ 1093.50 Class prices.

Subject to the provisions of § 1093.53 the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I Price.* The Class I price shall be the basic formula price for the second preceding month plus $3.08.

(b) *Class II Price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1093.52 for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1093.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1093.52.

(c) *Class III Price.* Subject to the adjustment set forth below for the applicable month, the Class III price shall be the basic formula price for the month.

Month	Amount
January	−$0.10
February	−0.10
March	−0.30
April	−0.30
May	−0.30
June	+0.10
July	+0.20
August	+0.25
September	+0.25
October	+0.25
November	+0.15
December	−0.10

§ 1093.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat, differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92 score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1093.52 Basic Class II formula price.

The "Basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1093.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1093.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to produce cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by

the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to produce cheddar cheese and the gross value of milk used to produce butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross value for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraphs (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

§ 1093.53 Plan location adjustments for handlers.

(a) For milk received at a plan from producers or a handler described in § 1093.9(c) and which is classified as Class I milk without movement in bulk form to a pool distributing plant at which a higher Class I price applies, the price specified in § 1093.50(a) shall be adjusted by the amount stated in paragraphs (a) (1) through (4) of this section for the location of such plant:

(1) For a plant located within one of the zones set forth in § 1093.2 the adjustment shall be as follows:

Zone	Adjustment per hundredweight (cents)
Zone 1	Minus 23
Zone 2	No Adjustment
Zone 3	Plus 10
Zone 4	Plus 20
Zone 5	Plus 37
Zone 6	Plus 57
Zone 7	Plus 70

(2) For a plant located within the marketing area of another order issued pursuant to the Act, the location adjustment shall be computed by subtracting the Class I price applicable in Zone 2 of this order from the Class I price applicable at such plant, had the plant been regulated under such order.

(3) For a plant located outside the areas described in paragraphs (a) (1) and (2) of this section, and north of a line extending through the northern borders of the States of Alabama, Georgia, and Mississippi the adjustment shall be a minus 23 cents for plants located nearest the city hall of Florence or Huntsville, Alabama; Rome or Blairsville, Georgia; Clarksdale or Corinth, Mississippi; or plus 20 cents for plants located nearest the city hall of Shreveport, Louisiana. Such minus adjustment shall be increased (plus adjustments decreased) 2.5 cents for each 10 miles or fraction thereof (by the shortest hardsurfaced highway distance as determined by the market administrator) that such plant is from the nearer of the cities of Florence or Huntsville, Alabama; Rome or Blairsville, Georgia; Clarksdale or Corinth, Mississippi; or Shreveport, Louisiana;

(4) For a plant located outside the areas specified in paragraphs (a) (1) through (3) of this section the adjustment shall be the adjustment applicable at the nearer of the cities of Lavonia, Augusta, or Savannah, Georgia; or Lake Charles, Leesville, or Shreveport, Louisiana.

(b) For fluid milk products transferred in bulk form from a pool plant to a pool distributing plant at which a higher Class I price applies and which are classified as Class I milk, the Class I price shall be the Class I price at the transferee-plant subject to a location adjustment credit for the transferor-plant which shall be determined by the market administrator for skim milk and butterfat, respectively, as follows:

(1) Subtract from the pounds of skim milk remaining in Class I at the transferee-plant after the computations pursuant to § 1093.44(a)(12) an amount equal to:

(i) The pounds of skim milk in receipts of milk at the transferee-plant from producers and handlers described in § 1093.9(c); and

(ii) the pounds of skim milk in receipts of packaged fluid milk products from other pool plants.

(2) Assign any remaining pounds of skim milk in Class I at the transferee-plant to the skim milk in receipts of fluid milk products from other pool plants, first to the transferor-plants at which the highest Class I price applies and then to other plants in sequence beginning with the plant at which the next highest Class I price applies;

(3) Compute the total amount of location adjustment credits to be assigned to tansferor-plants by multiplying the hundredweight of skim milk assigned pursuant to paragraph (b)(2) of this section to each transferor-plant at which the Class I price is lower than the class I price applicable at the transferor-plant and the transferee-plant, and add the resulting amounts.

(4) Assign the total amount of location adjustment credits computed pursuant to paragraph (b)(3) of this section to those transferor-plants that transferred fluid milk products containing skim milk classified as Class I milk pursuant to § 1093.42(a) and at which the applicable Class I price is less than the Class I price at the transferee-plant, in sequence beginning with the plant at which the highest Class I price applies. Subject to the availability of such credits, the credit assigned to each plant shall be equal to the hundredweight of such Class I skim milk multiplied by the adjustment rate determined pursuant to paragraph (b)(3) of this section for such plant. If the aggregate of this computation for all plants having the same adjustment as determined pursuant to paragraph (b)(3) of this section exceeds the credits that are available to those plants, such credits shall be prorated to the volume of skim milk in Class I in transfers from such plants; and

(5) Location adjustment credit for butterfat shall be determined in accordance with the procedure outlined for skim milk in paragraph (b) (1) through (4) of this section.

(c) The market administrator shall determine and publicly announce the zone location of each plant of each handler. The market administrator shall notify the handler on or before the first

day of any month in which a change in a plant locations zone will apply.

(d) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1093.54 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1093.50(b).

§ 1093.55 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1093.60 Handler's value of milk for computing the uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler's pool plants and of each handler described in § 1093.9 (b) and (c) with respect to milk that was not received at a pool plant as follows:

(a) Multiply the pounds of producer milk and milk received from a handler described in § 1093.9(c) that were classified in each class pursuant to §§ 1093.43(a) and 1093.44(c) by the applicable class prices, and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1093.44(14) and the corresponding step of § 1093.44(c) by the respective class prices, as adjusted by the butterfat differential specified in § 1093.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1093.44(a)(9) and the corresponding step of § 1093.44(b).

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1093.44(a)(7) (i) through (iv) and the corresponding step of § 1093.44(b), excluding receipts of a bulk fluid cream product from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1093.44(a)(7) (v) and (vi) and the corresponding step of § 1093.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1093.44(a)(11) and the corresponding step § 1093.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk and butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under the any order.

§ 1093.61 Computation of uniforms price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each month of July through January per hundredweight of milk of 3.5 butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1093.60 for all handlers who filed the reports prescribed in § 1093.30 for the month and who made payments pursuant to § 1093.71 for the preceding month;

(2) Add not less than one-half the unobligated balance in the producer-settlement fund;

(3) Add an amount equal to the total value of the minus adjustments and subtract an amount equal to the total value of the plus adjustments computed pursuant to § 1093.75;

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations;

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1093.60(f); and

(5) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The resulting figure, rounded to the nearest cent, shall be the weighted average price for each month and the uniform price for the months of July through January.

(b) For each month of February through June, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each 3.5 percent butterfat content, as follows:

(1) Compute the total value of excess milk for all handlers included in the computations pursuant to paragraphs (a)(1) of this section as follows:

(i) Multiply the hundredweight quantity of excess milk that does not exceed the total quantity of such handlers' producer milk assigned to Class III by the Class III price:

(ii) Multiply the remaining hundredweight quantity of excess milk that does not exceed the the total quantity of such handlers' producer milk assigned to Class II by the Class II price:

(iii) Multiply the remaining hunderweight quantity of excess milk by the Class I price; and

(iv) Add together the resulting amounts;

(2) Divide the total value of excess milk obtained in paragraph (b)(1) of this section by the total hundredweight of such milk and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk.

(3) From the amount resulting from the computations pursuant to paragraphs (a)(1) through (3) of this section subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(4) Subtract the total value of excess milk determined by multiplying the uniform price obtained in paragraph (b)(2) of this section times the hundreweight of excess milk from the amount computed pursuant to paragraph (b)(3) of this section;

(5) Divide the amount calculated pursuant to paragraph (b)(4) of this section by the total hundredweight of base milk included in these computations; and

(6) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (b)(5) of this section. The resulting figure, rounded to the nearest cent, shall be the uniform price for base milk.

§ 1093.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 11th day after the end of the month the applicable uniform price(s) pursuant to § 1093.61 for such month.

Payments For Milk

§ 1093.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which the market administrator shall deposit all payments made by handlers pursuant to §§ 1093.71, 1093.76, and 1093.77, and out of which the market administrator shall make all payments pursuant to §§ 1093.72 and 1093.77. Payments due any handler shall be offset by any payments due from such handler.

§ 1093.71 Payments to the producer-settlement fund.

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1093.60.

(2) The sum of:

(i) The value at the uniform price(s) as adjusted pursuant to § 1093.75, of such handler's receipts of producer milk and milk received from handlers pursuant to § 1093.9(c); and

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1093.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragarph (b)(1) of this section to route disposition in this marketing area by the difference between the Class I price under this part applicable at the location of the other plant (but not to be less than the Class III price) and the Class III price.

§ 1093.72 Payments from the producer-settlement fund.

On or before the 13th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1093.71(a)(2) exceeds the amount computed pursuant to § 1093.71(a)(1). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1093.73 Payments to produce and to cooperative associations.

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, as follows:

(1) On or before the 26th day of each month, for milk received during the first 15 days of the month from such producer who has not discontinued delivery of milk to such handler before the 23rd day of the month at not less than the Class III price for the preceding month, or 90 percent of the weighted average price for the preceding month, whichever is higher, less proper deductions authorized in writing by the producer. If the producer had discontinued shipping milk to such handler before the 25th day of any month, or if the producer had no established base upon which to receive payments during the base paying months of February through June, the applicable rate for making payments to such producer shall be the Class III price for the preceding month; and

(2) On or before the 15th day of the following month, an amount equal to not less than the uniform price(s), as adjusted pursuant to §§ 1093.74 and 1093.75, multiplied by the hundredweight of milk or base milk and excess milk received from such producer during the month, subject to the following adjustments.

(i) Less payments made to such producer pursuant to paragraph (a)(1) of this section;

(ii) Less deductions for marketing services made pursuant to § 1093.86;

(iii) Plus or minus adjustments for errors made in previous payments made to such producers; and

(iv) Less proper deductions authorized in writing by such producer.

(3) If a handler has not received full payment from the market administrator pursuant to § 1093.72 by the 15th day of such month, such handler may reduce payments pursuant to this paragraph to producers on a pro rata basis but not by more than the amount of the underpayment. Such payments shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after receipt of the balance due from the market administrator.

(b) On or before the day prior to the dates specified in paragraph (a) (1) and (2) of this section, each handler shall make payment to the cooperative association for milk from producers who market their milk through the cooperative association and who have authorized the cooperative to collect such payments on their behalf an amount equal to the sum of the individual payments otherwise payable for such producer milk pursuant to paragraph (a) (1) and (2) of this section.

(c) If a handler has not received full payment from the market administrator pursuant to § 1093.72 by the 14th day of such month, such handler may reduce payments pursuant to paragraph (b) of this section to such cooperative association on a pro rata basis, prorating such underpayment to the volume of milk received from such cooperative association in proportion to the total milk received from producers by the handler, but not by more than the amount of the underpayment. Such payments shall be completed in the following manner:

(1) If the handler receives full payment from the market administrator by the 15th day of the month, the handler shall make payment to the cooperative association of the full value of the underpayment on the 15th day of the month;

(2) If the handler has not received full payment from the market administrator by the 15th day of the month, the handler shall make payment to the cooperative association of the full value of the underpayment on or before the date for making such payments pursuant to this paragraph next following after receipt of the balance due from the market administrator.

(d) Each handler pursuant to § 1093.9(a) who receives milk from a cooperative association as a handler pursuant to § 1093.9(c), including the milk of producers who are not members

of such association, and who the market administrator determines have authorized such cooperative association to collect payment for their milk, shall pay such cooperative for such milk as follows:

(1) On or before the 25th day of the month for milk received during the first 15 days of the month, not less than the Class III price for the preceding month or 90 percent of the weighted average price for the preceding month, whichever is higher; and

(2) On or before the 14th day of the following month, not less than the appropriate uniform price(s) as adjusted pursuant to §§ 1093.74 and 1093.75, and less any payments made pursuant to paragraph (d)(1) of this section.

(e) If a handler has not received full payment from the market administrator pursuant to § 1093.72 by the 14th day of such month, such handler may reduce payments pursuant to paragraph (d) of this section to such cooperative association and complete such payments for milk received from such cooperative association in its capacity as a handler pursuant to § 1093.9(c), in the manner prescribed in paragraph (c) (1) and (2) of this section.

(f) In making payments for producer milk pursuant to this section, each handler shall furnish each producer or cooperative association from whom such handler has received producer milk a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The month and identity of the producer;

(2) The daily and total pounds and the average butterfat content of producer milk;

(3) For the months of February through June the total pounds of base milk received from such producer;

(4) The minimum rate(s) at which payment to the producer is required pursuant to this order;

(5) The rate(s) used in making the payment if such rate(s) is other than the applicable minimum rate(s);

(6) The amount, or rate per hundredweight, and nature of each deduction claimed by the handler; and

(7) The net of payment to such producer or cooperative association.

§ 1093.74 Butter differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price(s) shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1093.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price and the uniform price for base milk shall be adjusted according to the location of the plant at which the milk was physically received at the rates set forth in § 1093.53; and

(b) The weighted average price applicable to other source milk shall be adjusted at the rates set forth in § 1093.53(a) applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

§ 1093.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1093.30(b) and 1093.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be an amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and weighted average price shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1093.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other orderplant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be computed to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1093.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest price class of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1093.60 for such handler shall include, in lieu of the value of other source milk specified in § 1093.60(f) less the value of such other source milk specified in § 1093.71(a)(2)(ii), a value of milk determined pursuant to § 1093.60 for each nonpool plant that is not an other

order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributed plant during the month equivalent to the requirements of § 1093.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with its reports filed pursuant to §§ 1093.30(b) and 1093.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1093.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of the partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1093.74, for milk received at the plant during the month that would have been producer milk had the plant been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1093.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1093.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts, or other verification discloses errors resulting in money due the market administrator from a handler, or due a handler from the market administrator, or due a producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which the error(s) occurred.

§ 1093.78 Charges on overdue accounts.

Any unpaid obligation due the market administrator from a handler pursuant to §§ 1093.71, 1093.76, 1093.77, 1093.78, 1093.85 and 1093.86, shall be increased 1.5 percent each month beginning with the day following the date such obligation was due under the order. Any remaining amount due shall be increased at the same rate on the corresponding day of each month until paid. The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation and shall include any unpaid charges previously made pursuant to this section. For the purpose of this section, any obligation that was determined at a date later than prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

Administrative Assessment and Marketing Service Deduction

§ 1093.85 Assessment for order administration.

As each handler's pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Receipts of producer milk (including such handler's own production) other than such receipts by a handler described in § 1093.9(c) that were delivered to pool plants of other handlers;

(b) Receipts from a handler described in § 1093.9(c);

(c) Other source milk allocated to Class I pursuant to § 1093.44(a) (7) and (11) and the corresponding steps of § 1093.44(b), except such other source milk that is excluded from the computations pursuant to § 1093.60 (d) and (f); and

(d) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1093.76(a)(2).

§ 1093.86 Deduction for marketing services.

(a) Except as provided in paragraph (b) of this section each handler, in making payments to producers for milk (other than milk of such handler's own production) pursuant to § 1093.73, shall deduct 7 cents per hundredweight or such lesser amount as the Secretary may prescribe and shall pay such deductions to the market administrator not later than the 15th day after the month. Such money shall be used by the market administrator to verify or establish weights, samples and tests of producer milk and provide market information for producers who are not receiving such services from a cooperative association. Such services shall be performed in whole or in part by the market administrator or an agent engaged by and responsible to the market administrator;

(b) In the case of producers for whom a cooperative association that the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall (in lieu of the deduction specified in paragraph (a) of this section), make such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 15th day after the end of the month, pay such deductions to the cooperative association rendering such services accompanied by a statement showing the amount of any such deductions and the amount of milk for which such deduction was computed for each producer.

Base-Excess Plan

§ 1093.90 Base milk.

Base milk means the producer milk of a producer in each month of February through June that is not in excess of the producer's base multiplied by the number of days in the month.

§ 1093.91 Excess milk.

Excess milk means the producer milk of a producer in each month of February through June in excess of the producer's base milk for the month, and shall include all the producer milk in such months of a producer who has no base.

§ 1093.92 Computation of base for each producer.

(a) Subject to § 1093.93, the base for each producer shall be an amount obtained by dividing the total pounds of producer milk delivered by such producer during the immediately preceding months of August through December by the number of days represented by such producer milk or 120, whichever is more. If a producer operated more than one farm at the same time, a separate computation of base shall be made for each such farm.

(b) Any producer who, during the immediately preceding months of August through December, delivered milk to a nonpool plant that became a pool plant after the beginning of such base-forming period shall be assigned a base calculated as if the plant were a pool plant during such entire base-forming period. A base thus assigned shall not be transferable.

§ 1093.93 Base rules.

(a) Except as provided in § 1093.92(b) and paragraph (b) of this section, a base may be transferred in its entirety or in amounts of not less than 300 pounds effective on the first day of the month following the date on which such application is received by the market administrator. Base may be transferred only to a person who is or will be a producer by the end of the month that the transfer is to be effective. A base transfer to be effective on February 1 for the month of February must be received on or before February 15. Such application shall be on a form approved by the market administrator and signed by the baseholder or the legal representative of the baseholder's estate and the person to whom the base is to be transferred. If a base is held jointly, the application shall be signed by all joint holders or the legal representative of the estate of any deceased baseholder.

(b) A producer who transferred base on or after February 1 may not receive by transfer additional base that would be applicable during February through June of the same year. A producer who received base by transfer on or after February 1 may not transfer a portion of the base to be applicable during February through June of the same year, but may transfer the entire base.

(c) The base established by a partnership may be divided between the partners on any basis agreed to in writing by them if written notification of the agreed upon division of base by each partner is received by the market administrator prior to the first day of the month in which such division is to be effective.

(d) Two or more producers in a partnership may combine their separately established bases by giving notice to the market administrator prior to the first day of the month in which such combination of bases is to be effective.

(e) The base assigned a person who was a producer during the immediately preceding months of August through December may be increased to such producer's average daily producer milk deliveries in the month immediately preceding the month during which a condition described in paragraphs (e)(1), (2), or (3) of this section occurred, providing such producer submitted to the market administrator in writing on or before February 1 a statement that established to the satisfaction of the market administrator that in the immediately preceding August through December base-forming period the amount of milk produced on such producer's farm was substantially reduced because of conditions beyond the control of such person, which resulted from:

(1) The loss by fire or windstorm of a farm building used in the production of milk on the producer's farm;

(2) Brucellosis, bovine tuberculosis or other infectious diseases in the producer's milking herd as certified by a licensed veterinarian; or

(3) A quarantine by a Federal or State authority that prevents the dairy farmer from supplying milk from the farm of such producer to a plant.

§ 1093.93 Announcement of established bases.

On or before February 1 of each year, the market administrator shall calculate a base for each person who was a producer during any of the preceding months of August through December and shall notify each producer and the handler receiving milk from such dairy farmer of the base established by the producer. If requested by a cooperative association, the market administrator shall notify the cooperative association of each producer-member's base.

Proposed by Land-O-Sun Dairies, Inc.

Proposal No. 2:

Revise § 1093.13(d) (2) and (4) to read as follows:

§ 1093.13 Producer milk.

* * * * *

(d) * * *

(2) In any month of September through January not less than six days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

(3) * * *

(4) A handler operating a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (c)(3) of this section. The total quantity of milk so diverted during any month shall not exceed 30 percent of the producer milk physically received at such handler's pool plant(s) during the month;

* * * * *

Proposal No. 3

Proposed by Malone & Hyde Dairy, Nashville, Tennessee

Adopt the provisions of the proposal by Dairymen, Inc., Southern Milk Sales, et al., including a base-excess payment plan if desired by producers, with the following modifications to sections 2, 13, and 52(a)(1) of said proposal:

§ 1093.2 Gulf States Marketing Area

The "Gulf States marketing area" hereinafter called the "marketing area" means all territory within the boundaries of the following Alabama, Florida, Georgia and Mississippi counties and Louisiana parishes, including all piers, docks, and wharves connected therewith and all craft moored therat, and all territory occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed counties or parishes:

Zone 1:

Alabama Counties

Cherokee, Colbert, Cullman, DeKalb, Franklin, Jackson, Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall, Morgan and Winston.

Georgia Counties

Bartow, Cherokee, Dawson, Floyd, Forsyth, Gilmer, Gordon, Habersham, Hall, Lumpkin, Pickens, Rabun, Towns, Union, and White.

Zone 2:

Mississippi Counties

Alcorn, Benton, Itawamba, Lee, Pontotoc, Prentiss, Tippah, Tishomingo and Union.

Zone 3:

Alabama Counties

Blount, Calhoun, Clay, Cleburne, Etowah, Fayette, Jefferson, Lamar, Randolph, St. Clair, Shelby, Talladega, and Walker.

Georgia Counties

Banks, Barrow, Butts, Carroll, Clarke, Clayton, Cobb, Coweta, DeKalb, Douglas, Elbert, Fayette, Franklin, Fulton, Greene, Gwinnet, Haralson, Hart, Heard, Henry, Jackson, Jasper, Lamar, Lincoln, Madison, Meriwether, Morgan, Newton, Oconee, Oglethorpe, Paulding, Pike, Polk, Putnam, Rockdale, Spalding, Stephens, Taliaferro, Troup, Walton, and Wilkes.

Mississippi Counties

Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Clay, Coahoma, Grenada, Leflore, Lowndes, Monroe, Montgomery, Oktibbeha, Quitman, Sunflower, Tallahatchie, Washington, Webster, and Yalobusha.

Zone 4:

Alabama Counties

Autaga, Bibb, Chambers, Chilton, Coosa, Elmore, Greene, Hale, Lee, Macon, Perry, Pickens, Russell, Tallapoosa, and Tuscaloosa.

Georgia Counties

Baldwin, Bibb, Burke, Chattahoochee, Columbia, Crawford, Glascock, Hancock, Harris, Houston, Jefferson, Jones, Macon, Marion, McDuffie, Monroe, Muscogee, Peach, Richmond, Schley, Talbot, Taylor, Twiggs, Upson, Warren, Washington, and Wilkinson.

Mississippi Counties

Attala, Holmes, Humphreys, Noxubee, Washington, and Winston.

Zone 5:

Louisiana Parishes

Bienville, Bossier, Caddo, Caldwell, Claiborne, De Soto, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Red River, Richland, Tensas, Union, Webster, West Carroll and Winn.

Zone 6:

Alabama Counties

Barbour, Bullock, Choctaw, Dallas, Lowndes, Marengo, Montgomery, Pike, Sumter, and Wilcox.

Georgia Counties

Ben Hill, Bleckley, Bulloch, Candler, Clay, Crisp, Dodge, Dooly, Effingham, Emanuel, Evans, Jeff Davis, Jenkins, Johnson, Laurens, Lee, Montgomery, Pulaski, Quitman, Randolph, Screven, Steward, Sumter, Tattnall, Telfair, Terrell, Toombs, Treutlen, Turner, Webster, Wheeler, and Wilcox.

Mississippi Counties

Claiborne, Clarke, Copiah, Hinds, Issaquena, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Rankin, Scott, Sharkey, Simpson, Smith, Warren, and Yazoo.

Zone 7:

Alabama Counties

Coffee, Dale, Geneva, Henry and Houston.

Georgia Counties:

Appling, Atkins, Bacon, Baker, Berrien, Brantley, Brooks, Bryan, Calhoun, Camden, Charlton, Chatham, Clinch, Coffee, Coulquitt, Cook, Decatur, Dougherty, Early, Echols, Glynn, Graddy, Irwin, Lanier, Liberty, Long, Lowndes, McIntosh, Miller, Mitchell, Pierce, Seminole, Thomas, Tift, Ware, Wayne and Worth.

Zone 8:

Alabama Counties:

Butler, Clarke, Conecuh, Covington, Crenshaw, Monroe, and Washington.

Louisiana Parishes

Avoyelles, Catahoula, Concordia, Grant, La Salle, Natchitoches, Rapides, Sabine and Vernon.

Mississippi Counties

Adams, Amite, Covington, Forrest, Franklin, Greene, Jefferson, Jefferson Davis, Jones, Lamar, Lawrence, Lincoln, Marion, Perry, Pike, Walthall, Wayne and Wilkinson.

Zone 9:

Alabama Counties:

Baldwin, Escambia and Mobile.

Florida Counties

Escambia, Okaloosa, Santa Rosa and Walton.

Louisiana Parishes

East Feliciana, St. Helena, St. Tammany, Tangipahoa, Washington and West Feliciana.

Mississippi Counties

George, Hancock, Harrison, Jackson, Pearl River and Stone.

Zone 10:

Louisiana Parishes

Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, Evangaline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, Vermilion and West Baton Rouge.

Zone 11

Louisiana Parishes

Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles and Terrebonne.

§ 1093.13 Producer milk.

Producer milk means the skim milk and butterfat contained in milk of a producer that is:

(a) Received at a pool plant directly from such producer by the operator of the plant;

(b) Received by a handler described in § 1093.9(c); or

(c) Diverted from a pool plant to the pool plant of another handler. Milk so diverted shall be deemed to have been received at the location of the plant to which diverted; and

(d) Diverted by the operator of a pool plant or cooperative association to a nonpool plant that is not a producer-handler plant, subject to the following conditions:

(1) Not less than one day's production of the producer whose milk is diverted is physically received at a pool plant during the month;

(2) The total quantity of milk so diverted during any month by a cooperative association shall not exceed 40 percent of the producer milk for which the cooperative association is the handler;

(3) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (c)(2) of this section. The total quantity of milk so diverted during any month shall not exceed 40 percent of the producer milk for which the pool plant operator is the handler;

(4) Any milk diverted in excess of the limits prescribed in paragraphs (c) (2) and (3) of this section shall not be producer milk. The diverting handler shall designate the dairy farmer deliveries that will not be producer milk pursuant to paragraph (c) (2) and (3) of this section. If the handler fails to make such designation, no milk diverted by such handler shall be producer milk.

(5) To the extent that it would result in nonpool status for the plant from which diverted, milk diverted for the account of a cooperative association from the pool plant of another handler shall not be producer milk;

(6) The cooperative association shall designate the dairy farmer deliveries that are not producer milk pursuant to paragraph (c)(6) of this section. If the cooperative association fails to make such designation, no milk diverted by it to a nonpool plant shall be producer milk;

(7) Diverted milk shall be priced at the location of the plant to which diverted.

§ 1093.52 Plant location adjustments for handlers.

(a) For milk received at a plant from producers or a handler described in § 1093.9(c) and which is classified as Class I milk without movement in bulk form to a pool distributing plant at which a higher Class I price applies, the price specified in § 1093.50(a) shall be adjusted by the amount stated in paragraph (a) (1) through (4) of this section for the location of such plant:

(1) For a plant located within one of the zones set forth in § 1093.2 adjustment shall be as follows:

Zone	Adjustment per hundredweight (cents)
Zone 1	Minus 23.
Zone 2	Minus 18.
Zone 3	No adjustment.
Zone 4	Plus 10.
Zone 5	Plus 20.
Zone 6	Plus 27.
Zone 7	Plus 30.
Zone 8	Plus 37.
Zone 9	Plus 57.
Zone 10	Plus 63.
Zone 11	Plus 70.

Proposed by Associated Milk Producers, Inc.
Proposal No. 4:

PART 1108—MILK IN CENTRAL ARKANSAS MARKETING AREA

Revise § 1108.7(a) by changing the current paragraph (a) to (a)(1) and adding a new paragraph (2) to read as follows:

§ 1108.7 Pool plant.

* * * * *

(a) * * *

(2) A plant located in the marketing area that qualifies pursuant to paragraph (a)(1) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition shall be subject to all the provisions of this part so long as this order's Class I price applicable at such plant location is not less than the other order's Class I price applicable at the same location even though the plant may have greater disposition in the other marketing area than in the Central Arkansas marketing area.

* * * * *

Proposed by the Dairy Division, Agricultural Marketing Service:

Proposal No. 5

Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the orders may be procured from the Market Administrator, Dormal Newberry, USDA/AMS/Dairy Division, P.O. Box 49025, Atlanta, GA 30359, or from USDA/AMS/Dairy Division, Order Formulation Branch, room 2968-South Building, P.O. Box 96456, Washington, DC 20090-6456.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agriculutral Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington office only)
Office of the Market Administrators, Georgia, Alabama-West Florida, New Orleans-Mississippi, Greater Louisiana and Central Arkansas Marketing Areas

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, DC, on October 19, 1990.

Daniel Haley,

Administrator.

[FR Doc. 90-25228 Filed 10-24-90; 8:45 am]
BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1951

Recapture of Section 502 Rural Housing Subsidy

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to revise the formula for the recapture of subsidy granted on section 502 rural housing loans. This action is necessary because of an accounting system change resulting from the September, 1987, Congressional mandated rural housing asset sale. The intended effect of this action is to adjust the formula to coincide with the revised method of applying monthly subsidy to interest credit accounts.

DATES: Comments must be received on or before December 24, 1990.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Regulation, Analysis and Control Branch, FmHA, room 6346, South Agriculture Building, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the above address.

FOR FURTHER INFORMATION CONTACT: Phil Girard, Senior Loan Specialist, Single Family Housing Servicing and Property Management Division, FmHA, room 5309, South Agriculture Building, Washington, DC, telephone (202) 382-1452.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures established in Department Regulation 1512-1 which implements Executive Order 12291 and has been determined to be "nonmajor." It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions, or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

La Verne Ausman, Administrator, Farmers Home Administration has determined that this action will not have a significant economic impact on a substantial number of small entities because the change being proposed deals solely with revising the instruction concerning calculation of subsidy recapture on single family housing loans made by the Agency.

This action eliminates the two major problem areas associated with the present formula, compounding of principal reduction attributed to subsidy (PRAS) and not recognizing property improvements. PRAS and average interest rate have been deleted and credit for value added by capital improvements has been added to the calculation formula. The Subsidy Repayment Agreement has been deleted but the Interest Credit Agreement and the Promissory Note have been revised to better inform borrowers of their recapture obligation. Specific discussion, including examples, has been added that explains how to determine recapture on houses that are crosscollaterized with Farmer Program loans.

Since the inception of interest credit, FmHA's accounting system has accounted for subsidy granted by reducing the effective interest rate on the borrower's account rather than crediting the account with a fixed dollar amount. Because of this accounting system, principal on accounts that have received interest credit has been reduced at an accelerated rate. This is PRAS. This happens because payments, while the borrower is on interest credit, are applied at the effective (reduced) rate rather than at the note interest rate. This method of payment application results in a faster writedown of principal than if payments were applied at the higher, note interest rate. Because principal reduction has been accelerated, this benefit continues after a borrower stops receiving interest credit.

The compounding of PRAS is a difficult concept to understand. Under the Agency's new accounting method of applying interest credit payments at the note rate with a non cash credit for subsidy, PRAS will be eliminated on

new accounts after the change. This will not, however, prevent the continuing effect of compounding PRAS on existing accounts. The only way to eliminate further compounding of PRAS is to add accumulated PRAS back to the borrower's unpaid principal balance. This would be a one time adjustment that would not increase the borrower's monthly installment and would only apply to loans approved on or after October 1, 1979 that have received interest credit. Another alternative considered was to save the PRAS "on the books" at the time of the accounting change and forgive the PRAS that compounds after that date. This would provide an unwarranted windfall to the borrower and would be fiscally unacceptable to the Government.

There have been many complaints regarding PRAS. It has been difficult to adequately resolve the complaints because PRAS is a concept that is hard to understand. It is not an entitlement. The intent was never to subsidize principal, only interest. Most borrowers know the unpaid balance on their accounts and the amount of interest credit they receive each month. They do not, however, know the amount of accumulated PRAS nor are most even aware that PRAS exists. As a result, borrowers perceive an inflated equity position in their property.

As proposed, recapture will be based on a percentage, not to exceed 50 percent, of value appreciation in the property determined by dividing months of interest credit by the number of months the loan was outstanding. The proposed changes will apply to all borrowers subject to recapture. In our opinion, both borrowers and the Government will benefit from the change.

Borrowers will get credit for home improvements and be relieved from the continuing effects of compounding PRAS. By providing value added credit for capital improvements, the proposed instruction will more fully comply with section 521(a)(1)(D) of the Housing Act of 1949 which requires incentives to maintain the property in a marketable condition. The credit for capital improvements is based on the value added by the improvements, not the cost to the borrower of making the improvements. Normally FmHA RH program loans are for 100 percent of the purchase price of the dwelling so the borrower has little or no equity. If credit is given for the value of capital improvements, the borrower will have an incentive to improve the property. The desire to protect the equity gained from these improvements will encourage proper maintenance of the security property.

The effect of the proposed changes is that the Government will get existing PRAS back in the form of unpaid principal, recapture interest credit, have a more effective and efficient debt collection system and a more straightforward program to administer.

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environment Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.410, Low-Income Housing Loans (Section 502 Rural Housing Loans), and is not subject to the provision of Executive Order 12372 which requires intergovernmental consultation with State and local officials. *See* 7 CFR 3015, subpart V (48 FR 29112, June 24, 1983) and FmHA Instruction 1940–J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (December 23, 1983).

List of Subjects in 7 CFR Part 1951

Account servicing, Recapture of subsidy.

Accordingly, FmHA proposes to amend chapter XVIII, part 1951, title 7, Code of Federal Regulations, as follows:

PART 1951—SERVICING AND COLLECTIONS

1. The authority citation for part 1951 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

2. Subpart I of part 1951 is revised to read as follows:

Subpart I—Recapture of Section 502 Rural Housing Subsidy

Sec.

Subpart I—Recapture of Section 502 Rural Housing Subsidy

§ 1951.401 [Reserved]

§ 1951.402 Policy.

The policy of the Farmers Home Administration (FmHA) is to recapture all or a portion of subsidy granted on a section 502 loan, assumption or credit sale closed on or after October 1, 1979, when any equity exists in the secured property.

§§ 1951.403–1951.406 [Reserved]

§ 1951.407 Determining the amount of recapture.

(a) *Calculation.* Recapture will be calculated in the FmHA County Office and reported on Form Letter FmHA 1951–I–1, "Notification of Payoff Including Subsidy Recapture". Documentation of the recapture computation will be retained in the borrower's file.

(1) *When will recapture be calculated.* Recapture will be calculated when a borrower's account is settled by sale, refinancing or payment in full. If a borrower with multiple loans wants to pay off some, but not all of the loans, recapture will be calculated only if the remaining loan(s) is not subject to recapture.

(2) *How will recapture be calculated.* Value appreciation in the property will first be determined by subtracting from market value, in the following order, non-FmHA prior liens, unpaid balance of all FmHA loans against the property, farm equity recapture in accordance with subpart A of part 1965 of this chapter, sale/refinancing expense, original borrower equity and value of capital improvements. If there is no value appreciation, there will not be any recapture. If there is value appreciation, the percent available for recapture (not to exceed 50 percent) will be determined by dividing months of interest credit received by the number of months the loan was outstanding (partial months are to be considered as full months). This percent will be adjusted if the initial FmHA loan is not subject to recapture but a subsequent loan(s) is. If only a subsequent loan(s) is subject to recapture, the subsequent loan(s) amount will be divided by the amount of the total FmHA debt against the property, then multiplied by the percentage obtained above to determine the percent of value appreciation available for recapture. Recapture will be the lesser of subsidy granted or the amount of value appreciation available for recapture.

(3) *Notification of payoff.* The payoff amount on Form Letter FmHA 1951–I–1 is an estimated amount based on the information provided. There are many variables involved in determining a payoff including recapture. A change in the selling price or sales expense, for example, could result in a change in the payoff amount. To help assure the accuracy of the payoff information, the local FmHA County Office should be contacted 2 or 3 days before closing to verify the payoff amount.

(b) *Market value.* Market value refers to the fair market value of the property on the date the loan is to be paid in full as determined by the sales contract or the other lender's appraisal, if the loan is being refinanced, provided that the value reasonably represents the market value based on the County Supervisor's knowledge of the property and the area. The FmHA appraisal will be used in all other circumstances.

(c) *Sales/refinancing expenses.* Sales/refinancing expenses include unreimbursed expenses commonly associated with the sale or refinancing of real estate, such as sales commissions, advertising cost, recording fees, pro rata taxes, points based on the current interest rate, appraisal fees, transfer tax, deed preparation fee, loan origination fee, etc. In refinancing situations where the borrower is obtaining a loan for more than the FmHA debt, only allow points based on the amount of the FmHA debt. Recapture may be calculated using estimated expenses if actual expenses cannot be obtained and the County Supervisor is satisfied that the estimated amount and the proration of the expenses are accurate for the transaction.

(d) *Original borrower equity.* Original borrower equity will consist of an actual contribution by the borrower to the extent that the contribution reduces the amount of the FmHA loan below the market value of the house. The contribution can represent cash, value of the lot if the home was constructed on the borrower's property, or equity acquired by participation in the Self Help program.

(e) *Capital improvements.* Capital improvements that increase the value of the security property will be considered to the extent that the capital improvements do not exceed local market value contribution, as indicated by a sales comparison. Generally, value added by capital improvements will be the difference between market value at the time of sale and market value without the capital improvements. Maintenance costs (yard maintenance, painting, wallpapering, etc.) and replacement of short-lived components (roof, siding, floorcovering, appliances, furnace, water heater, etc.) are normal expenses associated with homeownership and are not considered capital improvements. Examples:

(1) A borrower sells security property including a garage added subsequent to closing for $50,000. A similar property without a garage sells for $42,000. The garage could have cost the borrower more or less than the $8,000 difference, but the value added credit will be $8,000.

(2) A borrower is refinancing and the property is appraised at $50,000, which includes a den and children's playroom finished in the basement subsequent to loan closing. Similar homes without finished basements are selling for $47,000. The improvements could have cost the borrower more or less than the $3,000 difference but the value added credit will be $3,000.

(3) A borrower encloses the carport and does the work. The project cost $1,500 but the workmanship was unprofessional and actually caused a decrease in the property value. Since no value was added, an adjustment for capital improvements would not be authorized.

(f) *Assumptions.* When a loan subject to recapture of subsidy is assumed, the amount of subsidy to be repaid by the transferor must be paid at closing or be assumed by the transferee and amortized with unpaid principal and interest. Exception: When a dwelling is situated on more than a minimum adequate site and all of the security property is not being transferred, if proceeds are insufficient to repay all of the recapture due, the amount of recapture not paid will be combined with the remaining debt of the retained property and amortized over a period not to exceed 10 years.

(1) When a loan approved before October 1, 1979, is assumed by a program transferee with very low, low or moderate income other than a divorced or deceased borrower's spouse or other relative as provided for in § 1965.126(c)(2) of subpart C of part 1965 of this chapter, a new or supplemental security instrument will be recorded to secure the recapture of subsidy which may be granted to the transferee. If a subsequent loan is made in connection with the assumption, a new security instrument will always be taken.

(2) When a loan approved before October 1, 1979, is assumed by a divorced or deceased borrower's spouse or other relative as authorized in § 1965.126(c)(2) of subpart C of part 1965 of this chapter, it will not become subject to recapture and a new security instrument will not be required. If a subsequent loan is also closed it will be subject to recapture and a new security instrument will be required for the subsequent loan.

(g) *Subsequent loan payoffs.* When only a subsequent loan(s) is being paid off and the remaining loan is subject to recapture, recapture will not be calculated. Recapture will be calculated when the account is paid in full, taking into consideration all subsidy that was granted on the account, including subsidy on a previously paid off subsequent loan(s). If the remaining loan is not subject to recapture, recapture will be calculated using an appraisal as market value in accordance with paragraph (a) of this section. In this situation, the borrower may defer payment of the recapture amount until the property is sold or, if refinanced, the recapture may be subordinated.

§ 1951.408 Option to defer payment of recapture.

If an account is refinanced, paid in full without transfer of title, or conveyed by the borrower to their spouse or child, the borrower has the option of paying recapture or of deferring payment until the property is sold. If payment is deferred, interest will not accure on the deferred balance and the promissory note will not be cancelled and mortgage securing the FmHA loan(s) will not be released of record until the total amount owed the government is paid. The FmHA mortgage securing the recapture amount, however, may be subordinated to permit refinancing in accordance with § 1965.106 of subpart C of part 1965 of this chapter, if the subordinated recapture is adequately secured.

§ 1951.409 Miscellaneous provisions

(a) *House on a farm.* Calculate a payoff with recapture on a crosscollaterized housing loan on a farm in accordance with paragraph (a) of §1951.407 of this subpart. Value appreciation will be determined based on the market value of the property being sold, paid off (including net recovery buyout) or refinanced. Recapture will be based on the portion of value appreciation attributed to the RH property. If the borrower is refinancing the house, the other lender's appraisal may be used if the County Supervisor believes the appraisal reasonably represents market value. Examples:

(1) Borrower has FO loan on 200 acres with a crosscollaterized RH loan. The 200 acre farm, including the house, is being sold for its current market value of $175,000. The market value of the house

and a minimum adequate site if on the farm or the house and lot if off the farm is $50,000 which is 28.6% of the market value of the farm. Value appreciation based on the market value of the farm (including the house) is $20,000. Recapture would be calculated based on an adjusted value appreciation of $5720 (28.6% of $20,000).

(2) Same situation as above except the borrower has added another 100 acres subsequent to loan closing. The 300 acres, including the house, has a market value of $200,000. The market value of the house is $50,000 which is 25% of the market value of the farm. The borrower would be given credit for the value added by the additional 100 acres and, if value appreciation was $25,000, recapture would be calculated based on an adjusted value appreciation of $6250 (25% of $25,000).

(3) This same borrower is selling 290 acres to the adjoining farmer and keeping the house and 10 acres. Since the house is not being sold, recapture would not be calculated.

(4) This same borrower sells 290 acres to the adjoining farmer and sells the house and 10 acres to a separate family. The payoff on the RH loan would be based only on the market value of the house and 10 acres. The farm loans would not be considered in the recapture calculation.

(b) *Reamortization.* Recapture will not be calculated when an account is reamortized.

(c) *Soldiers and Sailors Relief Act.* Interest reduced to 6 percent under this Act is not subject to recapture. If a borrower qualifies for interest credit after reduction to 6 percent, the amount of subsidy would be the difference between the interest credit payment and the payment at 6 percent interest, not the note rate payment. When a borrower receiving subsidy also qualifies under the Act, the amount of subsidy subject to recapture is computed by adding the subsidy calculated in the customary manner before qualification to the subsidy calculated herein after qualification.

(d) *Non-FmHA Junior liens.* Non-FmHA junior liens are not considered in the recapture calculation. In the event a junior lienholder forcloses, recapture will be calculated before providing the lienholder with a payoff amount.

§ 1951.410 Elimination of principal reduction attributed to subsidy.

Principal reduction attributed to subsidy (PRAS) will be eliminated on new accounts under the Agency's new accounting method of applying the borrower's reduced payment at the note rate with a monthly non cash credit for the amount of interest credit. For borrowers who accrued PRAS prior to FmHA's conversion to the note rate subsidy method of granting interest assistance, FmHA will make a one-time adjustment by adding the accumulated PRAS to the unpaid principal balance. This adjustment will not increase the monthly installment and will allow the account to pay out over the full term rather than ahead of schedule. Affected borrowers will be notified of the amount and date of the adjustment.

§ 1951.411—1951.412 [Reserved]

§ 1951.413 Internal agency management instructions.

Internal agency management instructions are covered in FmHA instruction 1951–I, Recapture of section 502 Rural Housing Subsidy, which is available in any FmHA office.

§ 1951.414—1951.450 [Reserved]

3. Exhibits A and B of subpart I of part 1951 are removed and reserved.

Dated: August 16, 1990.

La Verne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 90–25194 Filed 10–24–90; 8:45 am]

BILLING CODE 3410–07–M

Animal and Plant Health Inspection Service

9 CFR Part 113

[Docket No. 90–042]

Viruses, Serums, Toxins, and Analogous Products; Revision of Standard Requirements for Clostridium Bacterin-Toxoids and Tetanus Toxoid

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed action would amend the test methods used in conducting potency tests for serial release of Clostridium Novyi Bacterin-Toxoid, Clostridium Sordellii Baterin-Toxoid, and Tetanus Toxoid. The current test methods for Clostridium Novyi Bacterin-Toxoid and Clostridium Sordellii Bacterin-Toxoid products require that potency be measured in a valid vaccination-challenge test in guinea pigs. The proposed tests for these products involve serological conversion in rabbits and quantitation of the antitoxins in mice. The potency of Tetanus Toxoid products is presently determined by measuring the neutralization capacity of pooled serum from vaccinated guinea pigs. In the proposed tests for Tetanus Toxoid products, an ELISA assay is used to quantitate the Antitoxin Units per ml of a serum pool derived from vaccinated guinea pigs. The proposed test procedures measure antitoxin responses which have been correlated to protective levels of antitoxin in the host species. These procedures would result in a more precise evaluation of potency of the products than test procedures which are currently being used. The proposed test procedures also allow for testing multiple antigens in the same test animals which results in using a reduced number of animals in potency tests for serial release.

DATE: Consideration will be given only to comments received on or before December 24, 1990.

ADDRESSES: Send an original and three copies of written comments to Chief, Regulatory Analysis and Development Staff, APHIS, USDA, room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 90–042. 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. David A. Espeseth, Deputy Director, Veterinary Biologics; Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–6332.

SUPPLEMENTARY INFORMATION:

Background

Clostridium Novyi Bacterin-Toxoid and Clostridium Sordellii Bacterin-Toxoid

The current Standard Requirements for Clostridium Novyi Bacterin-Toxoid and Clostridium Sordellii Bacterin-Toxoid specify that each serial of product must be tested for potency in guinea pigs prior to release. The test animals are vaccinated with a prescribed dose of the product. Fourteen to fifteen days after a second injection, vaccinated animals, along with an acceptable number of controls, are challenged with an applicable virulent organism generally furnished by the Animal and Plant Health Inspection Service (APHIS). For a test to be satisfactory, at least 80 percent of the guinea pigs used as controls must die during the 3-day post challenge observation period and seven of eight

treated animals must survive the challenge. If two of the vaccinated animals succumb to the challenge, the current standards provide for a second stage test. The use of virulent, spore forming challenge organisms in guinea pigs results in progressive, fatal disease in virtually all the controls. Using the present test procedure, guinea pigs can be tested for only a single antigen. Therefore, each product must be tested separately, since the test does not allow for differentiation of multicomponent products.

The Animal and Plant Health Inspection Service and the manufacturers of the products discussed in this proposal have cooperated in developing tests modeled after the potency test currently codified in §§ 113.96 and 113.97 for Clostridium Perfringens Type C Bacterin-Toxoid and Clostridium Perfringens Type D, Bacterin-Toxoid, respectively. The cooperative effort was undertaken to (1) Determine the minimum protective levels of antitoxin in sheep and cattle (animals for which the products in this proposal are indicated); and, (2) to develop a potency test that would correlate the serological response and protective levels of antitoxin in sheep and cattle to the serological response in rabbits. The tests which were developed allow for serological conversion in rabbits and quantitation of the antibody (antitoxin) level in mice. Using these tests, a product containing more than one antigen can be inoculated into rabbits and the serological responses to individual antigens measured in mice. Quantitating the response to individual antigens is accomplished by determining the neutralizing capacity of each antitoxin against its homologous antigen. For each antitoxin to be measured, an equal quantity of serum from each test rabbit is combined and tested as a single serum pool. At least seven rabbits are required to make an acceptable serum pool. Graded volumes of the undiluted serum pool are combined with prescribed amounts of diluted Standard Toxin, as specified in the proposed test procedures, and allowed to neutralize. Each resulting diluted mixture is then injected into five mice (for each antitoxin being measured). Although the highest dilution of antitoxin will not protect mice from death, the disease process is not progressive and therefore is more humane than the present spore challenge of guinea pigs.

The data accumulated from the cooperative studies with nine participating manufacturers has been analyzed. Based on that analysis, the Agency has concluded that the proposed potency tests conserve time and animals, are more humane, and are a more accurate measurement of the quantity of antigens in the products and the quality of antitoxins produced in host animals. The proposed tests are more precise than the current tests in evaluating products containing a single antigen or multiple antigens.

Tetanus Toxoid

The current Standard Requirement for Tetanus Toxoid specifies that each serial of product must be tested for potency in 10 guinea pigs. The test animals are vaccinated with a prescribed dose of the product and bled 6 weeks later. An equal volume of serum from each of at least 10 guinea pigs is combined to make a serum pool. A prescribed amount of serum from the pool is combined with a standard amount of tetanus toxin, and inoculated into additional guinea pigs to determine if the serum from the vaccinated guinea pigs contain sufficient antitoxin to neutralize the toxin. A failure to neutralize the toxin would result in the deaths of the innoculated guinea pigs. It has been determined that the pool of guinea pig serum must contain at least 2.0 antitoxin units (A.U.) per ml for the product serial to be satisfactory. If the serial test is unsatisfactory, the pooled serum can be retested using 20 guinea pigs.

APHIS and manufacturers of Tetanus Toxoid developed an assay method to replace the current toxin neutralization test conducted in guinea pigs. The cooperative effort resulted in an enzyme-linked immunosorbent assay (ELISA) which accurately quantitates the A.U. per ml of the serum pool from the guinea pigs vaccinated with toxoid without requiring the inoculation and death of the additional guinea pigs used in the toxin neutralization test. The minimum antitoxin level required for a satisfactory guinea pig serum pool would be retained at 2 A.U. per ml. Because the ELISA is more precise than the toxin neutralization test, the prescribed retest of unsatisfactory serials would be conducted in 10 rather than 20 animals.

The Agency analyzed the data accumulated from cooperative studies with six participating manufacturers. It has concluded that the proposed potency test would conserve time and animals, and is more humane and economical than the current potency test. This proposed test accurately measures the quantity of antitoxin(s) produced by the product in susceptible host species.

The proposal specifies that the antitoxin level shall be determined by an ELISA acceptable to the Animal and Plant Health Inspection Service. The Agency has prepared a Supplemental Assay Method (SAM) in accordance with 9 CFR 113.2(a) which details the ELISA test procedure that is used by the animal and Plant Health Inspection Service.

Executive Order 12291 and Regulatory Flexibility Act

This proposed rule is issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1 and has been determined not to be a "major rule." Based on information compiled by the Department, it has been determined that this proposed rule would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, and would 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. The purpose of this proposed action is to codify in the Standard Requirements updated procedures for conducting potency tests for serial release that are more economical, more humane, and more accurate than the current test procedures in measuring the quantity of antigen and quality of these products.

Under these circumstances, the Administrator of APHIS has determined that this action would not have significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This proposed rule contains no new 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 3015, subpart V.)

List of Subjects in 9 CFR Part 113

Animal biologics.

PART 113—STANDARD REQUIREMENTS

Accordingly, title 9, Code of Federal Regulations, would be amended as follows:

1. The authority citation for part 113 would continue to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.17, 2.15, and 371.2(d).

2. In § 113.93, paragraph (c), would be revised to read as follows:

§ 113.93 Clostridium Novyi Bacterin-Toxoid.

* * * * *

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested for potency using the Alpha toxin-neutralization test provided in this paragraph.

(1) When used in this test, the following words and terms shall mean:

(i) *International antitoxin unit.* (I.U.) That quantity of Alpha Antitoxin which reacts with Lo and L+ doses of Standard Toxin according to their definitions.

(ii) *Lo dose.* The largest quantity of toxin which can be mixed with one unit of Standard Antitoxin and not cause sickness or death in injected mice.

(iii) *L+ dose.* The smallest quantity of toxin which can be mixed with one unit of Standard Antitoxin and cause death in at least 80 percent of injected mice.

(iv) *Standard antitoxin.* The Alpha Antitoxin preparation which has been standardized as to antitoxin unitage on the basis of the International *Clostridium novyi* Alpha Antitoxin Standard and which is either supplied by or acceptable to the Animal and Plant Health Inspection Service. The antitoxin unit value shall be stated on the label.

(v) *Standard toxin.* The Alpha toxin preparation which is supplied by or is acceptable to the Animal and Plant Health Inspection Service.

(vi) *Diluent.* The solution used to make proper dilutions prescribed in this test. Such solutions shall be made by dissolving 1 gram of peptone and 0.25 gram of sodium chloride in each 100 ml of distilled water; adjusting the pH to 7.2; autoclaving at 121° C for 25 minutes; and storing at 4° C until used.

(2) Each of at least eight rabbits of a strain acceptable to the Animal and Plant Health Inspection Service, each weighing 4–8 pounds, shall be injected subcutaneously with not more than half of the recommended cattle dose. *Provided,* That, if the product is recommended only for sheep, half of the recommended sheep dose shall be used. A second dose shall be given not less than 20 days nor more than 23 days after the first dose.

(3) Fourteen to seventeen days after the second dose, all surviving rabbits shall be bled, and the serum tested for antitoxin content.

(i) At least seven rabbits are required to make an acceptable serum pool.

(ii) Equal quantities of serum from each rabbit shall be combined and tested as a single pooled serum.

(iii) If less than seven rabbits are available, the test is invalid and shall be repeated: *Provided,* That, if the test is not repeated, the serial shall be declared unsatisfactory.

(4) The antitoxin content of the rabbit serums shall be determined by the serum neutralizaton test as follows:

(i) Make a dilution of Standard Antitoxin to contain 0.1 International Unit of antitoxin per ml.

(ii) Make a dilution of Standard Toxin in which 0.1 Lo dose is contained in a volume of 1 ml or less. Make a second dilution of Standard Toxin in which 0.1 L+ dose is contained in a volume of 1 ml or less.

(iii) Combine 0.1 International Unit of Standar Antitoxin with 0.1 Lo dose of diluted Standard Toxin and combine 0.1 International Unit of Standard Antitoxin with 0.1 L+ dose of diluted Standard Toxin. Each mixture is adjusted to a final volume of 2.0 ml with diluent.

(iv) Combine 0.1 Lo dose of diluted Standard Toxin with a 0.2 ml volume of undiluted serum. The mixture is adjusted to a final volume of 2.0 ml with diluent.

(v) Neutralize all toxin-antitoxin mixtures at room temperature for 1 hour and hold in ice water until injections of mice can be made.

(vi) Five Swiss white mice, each weighing 16–20 grams, shall be used for each toxin-antitoxin mixture. A dose of 0.2 ml shall be injected intravenously into each mouse. Conclude the test 72 hours post injection and record all deaths.

(5) Test Interpretation shall be as follows:

(i) If any mice inoculated with the mixture of 0.1 International Unit of Standard Antitoxin and 0.1 Lo doses of Standard Toxin die, the results of the serum neutralization test are inconclusive and shall be repeated: *Provided,* That, if the test is not repeated, the serial shall be declared unsatisfactory.

(ii) If less than 80 percent of the mice inoculated with the mixture of 0.1 International Unit of Standard Antitoxin and 0.1 L+ doses of Standard Toxin die, the results of the serum neutralization test are inconclusive and shall be repeated: *Provided,* That, if the test is not repeated, the serial shall be declared unsatisfactory.

(iii) If any mice inoculated with the mixture of 0.2 ml undiluted serum with 0.1 Lo dose of Standard Toxin die, the serum is considered to contain less than 0.50 International Units per ml.

(iv) If the single pooled serum from seven or more rabbits contains less than 0.5 International Unit per ml, the serial is unsatisfactory.

3. In § 113.94, paragraph (c), would be revised to read as follows:

§ 113.94 Clostridium Sordellii Bacterin-Toxoid.

* * * * *

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested for potency using the toxin-neutralization test provided in this paragraph.

(1) When used in this test, the following words and terms shall mean:

(i) *International antitoxin unit.* (I.U.) That quantity of antitoxin which reacts with Lo and L+ doses of Standard Toxin according to their definitions.

(ii) *Lo dose.* The largest quantity of toxin which can be mixed with one unit of Standard Antitoxin and not cause sickness or death in injected mice.

(iii) *L+ dose.* The smallest quantity of toxin which can be mixed with one unit of Standard Antitoxin and cause death in at least 80 percent of injected mice.

(iv) *Standard antitoxin.* The antitoxin preparation which has been standardized as to antitoxin unitage on the basis of the International *Clostridium sordellii* Antitoxin Standard and which is either supplied by or acceptable to the Animal and Plant Health Inspection Service. The antitoxin unit value shall be stated on the label.

(v) *Standard toxin.* The toxin preparation which is supplied by or is acceptable to the Animal and Plant Health Inspection Service.

(vi) *Diluent.* The solution used to make proper dilutions prescribed in this test. Such solutions shall be made by dissolving 1 gram of peptone and 0.25 gram of sodium chloride in each 100 ml of distilled water; adjusting the pH to 7.2; autoclaving at 121° C for 25 minutes; and storing at 4° C until used.

(2) Each of at least eight rabbits of a strain acceptable to the Animal and Plant Health Inspection Service, each weighing 4–8 pounds, shall be injected subcutaneously with not more than half of the recomended cattle dose. *Provided,* That, if the product is recommended only for sheep, half of the recommended sheep dose shall be used. A second dose shall be given not less than 20 days nor more than 23 days after the first dose.

(3) Fourteen to seventeen days after the second dose, all surviving rabbits shall be bled, and the serum tested for antitoxin content.

(i) At least seven rabbits are required to make an acceptable serum pool.

(ii) Equal quantities of serum from each rabbit shall be combined and tested as a single pooled serum.

(iii) If less than seven rabbits are available, the test is invalid and shall be repeated: *Provided,* That, if the test is not repeated, the serial shall be declared unsatisfactory.

(4) The antitoxin content of the rabbit serums shall be determined by the serum neutralization test as follows:

(i) Make a dilution of Standard Antitoxin to contain 1.0 international unit of antitoxin per ml.

(ii) Make a dilution of Standard Toxin in which 1.0 Lo dose is contained in a volume of 1 ml or less. Make a second dilution of Standard Toxin in which 1.0 L+ dose is contained in a volume of 1 ml or less.

(iii) Combine 1.0 International Unit of Standard Antitoxin with 1.0 Lo dose of diluted Standard Toxin and combine 1.0 International Unit of Standard Antitoxin with 1.0 L+ dose of diluted Standard Toxin. Each mixture is adjusted to a final volume of 2.0 ml with diluent.

(iv) Combine 1.0 Lo dose of diluted Standard Toxin with a 1.0 ml volume of undiluted serum. This mixture is adjusted to a final volume of 2.0 ml with diluent.

(v) Neutralize all toxin-antitoxin mixtures at room temperature for 1 hour and hold in ice water until injections of mice can be made.

(vi) Five Swiss white mice, each weighing 16–20 grams, shall be used for each toxin-antitoxin mixture. A dose of 0.2 ml shall be injected intravenously into each mouse. Conclude the test 72 hours post injection and record all deaths.

(5) Test Interpretation shall be as follows:

(i) If any mice inoculated with the mixture of 1.0 International Unit of Standard Antitoxin and 1.0 Lo doses of Standard Toxin die, the results of the serum neutralization test are inconclusive and shall be repeated: *Provided,* That, if the test is not repeated, the serial shall be declared unsatisfactory.

(ii) If less than 80 percent of the mice inoculated with the mixture of 1.0 International Unit of Standard Antitoxin and 1.0 L+ doses of Standard Toxin die, the results of the serum neutralization test are inconclusive and shall be repeated: *Provided,* That, if the test is not repeated, the serial shall be declared unsatisfactory.

(iii) If any mice inoculated with the mixture of 1.0 ml undiluted serum with 1.0 Lo dose of Standard Toxin die, the serum is considered to contain less than 1.0 International Units per ml.

(iv) If the single pooled serum from seven or more rabbits contains less than 1.0 international Unit per ml, the serial is unsatisfactory.

4. In § 113.99, paragraph (c), would be revised to read as follows:

§ 113.99 Tetanus Toxoid.

* * * * *

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested for potency. A group of 10 guinea pigs consisting of an equal number of males and females weighing 450 to 550 grams shall each be injected subcutaneously with 0.4 of the horse dose recommended on the product label.

(1) Six weeks after injection, all surviving guinea pigs shall be bled and equal portions of serum from at least eight guinea pigs, but not less than 0.5 ml from each, shall be pooled. Serum from not less than eight animals shall be used.

(2) The antitoxin titer of the pooled serum shall be determined in antitoxin units (A.U.) per ml using an enzyme-linked immunosorbent assay method acceptable to the Animal and Plant Health Inspection Service.

(3) If the antitoxin titer of the serum pool is at least 2.0 A.U. per ml, the serial is satisfactory. If the antitoxin titer of the serum pool is less than 2.0 A.U. per ml, the serial may be retested by the following procedure: *Provided,* That, if the serial is not retested, it shall be declared unsatisfactory.

(4) For serials in which the serum pool contains less than 2.0 A.U. per ml, the individual sera that constituted the pool may be tested by the enzyme-linked immunosorbent assay. If at least 80 percent of the individual serums have an antitoxin titer of at least 2.0 A.U. per ml, the serial is satisfactory. If less than 80 percent of the individual serums have an antitoxin titer of at least 2.0 A.U. per ml, the serial may be retested in 10 guinea pigs using the procedure described in (c) (1) and (2) above. The antitoxin titer of the pooled serum from the guinea pigs used in the retest shall be averaged with the antitoxin level of the pooled serum from the initial test. If the average of the two pools is at least 2.0 A.U. per ml, the serial is satisfactory. If the average of the two pools is less than 2.0 A.U. per ml, the serial is unsatisfactory and shall not be retested further.

Done in Washington, DC, this 19 day of October 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-25195 Filed 10-24-90; 8:45 am]

BILLING CODE 3410-10-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 720

[Docket No. 89P-0180]

Modification in Voluntary Registration of Cosmetic Product Ingredient and Raw Material Composition Statements

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Adminstration (FDA) is proposing to modify its program of voluntary filing of cosmetic product formulations and raw material compositions by eliminating the reporting of semiquantitative ingredient information, integrating raw material composition disclosures into cosmetic product formulation statements, and discontinuing the form for reporting raw material compositions. This proposal is in response to a petition filed by the Cosmetic, Toiletry and Fragrance Association. In addition, FDA is proposing clarifying changes to update and to remove references from its regulations that would be obsolete if this proposal becomes final. The proposed changes will have no significant effect on the quality of the cosmetic registration program.

DATES: Written comments by December 24, 1990. The proposed effective date of the final rule based on this proposal is 30 days after its date of publication in the Federal Register.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Raymond L. Decker, Jr., Center for Food Safety and Applied Nutrition (HFF-444), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-245-1493.

SUPPLEMENTARY INFORMATION: The regulations in 21 CFR part 720 provide for the voluntary filing of cosmetic product ingredient and cosmetic raw material composition statements. On May 15, 1989, the Cosmetic, Toiletry and

Fragrance Association (CTFA) petitioned FDA to amend 21 CFR part 720 by removing the requirement for declaration of semiquantitative ingredient information on cosmetic product ingredient statements (Form FDA 2512) and by discontinuing the voluntary filing of cosmetic raw material composition statements (Form FDA 2513). CTFA further requested that the participants in the voluntary registration program be permitted to follow the new filing procedures without awaiting completion of the rulemaking process. CTFA argued in its petition that these revisions of 21 CFR part 720 would not reduce the value of the information reported to the agency, and that a less burdensome registration process would increase participation in this voluntary program (Ref. 1).

Modification of the registration process was first suggested by CTFA in a letter to the agency dated February 3, 1989. In that letter, CTFA urged FDA to discontinue the requirement that semiquantitative information be submitted to the agency (Ref. 2). At a meeting with CTFA representatives on March 9, 1989, FDA suggested that, because of the requirement for cosmetic ingredient labeling and the associated disclosure of ingredient compositions, firms could also discontinue their submission of cosmetic raw material composition statements on Form FDA 2513 without compromising the value of the information registered with the agency (Ref. 3). FDA confirmed this view in a letter to CTFA dated March 10, 1989 (Ref. 4).

On September 28, 1989, FDA informed CTFA that the agency did not object to the immediate discontinuation of disclosure of semiquantitative data on cosmetic product ingredient statements (Ref. 5). However, the agency did not accede to the request for immediate discontinuation of the use of Form FDA 2513. This form has served as a vehicle not only for filing of proprietary cosmetic raw material compositions but also for registering "base" or "master batch" formulations, mostly by contract manufacturers, to which other ingredients are added to complete various product formulations with specific characteristics that differ from those of the respective base or master batch. If a base that has been filed with FDA on a Form FDA 2513 is processed into a product, and the product formulation is voluntarily registered on a Form FDA 2512, the base formulation is declared on the Form FDA 2512 as a single ingredient. If Form FDA 2513 is to be discontinued, FDA will need to ensure that there are arrangements, and instructions for registering base formulations as well as finished product formulations on Form FDA 2512 and for cross-referencing such registrations.

I. Proposed Changes in Voluntary Registration

FDA is proposing to grant CTFA's petition to change the requirement for voluntary registration of cosmetic product ingredient statements and to discontinue the registration of cosmetic raw material composition statements. FDA concurs with CTFA that it is not necessary to continue to disclose semiquantitative data on Form FDA 2512 because information on customary use concentrations of cosmetic ingredients is readily available in the cosmetic technical literature. In cases involving specific toxicological issues, where precise information about the concentration of a suspected ingredient in a product is needed, semiquantitative data offer little or no assistance in determining the safety or harmfulness of an ingredient or of the product in which it is present.

To reflect its tentative determination, FDA is proposing to amend 21 CFR 720.4(d)(1) by removing the requirement that the list of each ingredient in a cosmetic product in descending order of predominance on Form FDA 2512 be accompanied by a letter (A through H) designating the percentage of the ingredient added. The agency is also proposing to amend § 720.4 by removing paragraphs (d)(1)(i) through (d)(1)(viii) that specify the letters (A through H) to be used to designate the percentage of the ingredient added.

FDA further proposes that Form FDA 2513 for voluntary registration of cosmetic raw material compositions, including proprietary raw material mixtures and formulations of fragrances, flavors, and "bases" or "master batches," be discontinued. The ingredient labeling regulations (21 CFR 701.3), adopted after the voluntary registration of cosmetic product ingredient and raw material composition statements was initiated, requires the declaration on the label of the names of each ingredient (except the name of each flavor or fragrance ingredient), whether the ingredient is added to the product formulation as a single entity or added as a component of a mixture of ingredients. FDA proposes that this method of ingredient disclosure also be adapted for the voluntary registration of cosmetic product formulations on Form FDA 2512 to simplify the registration process.

With the discontinuance of Form FDA 2513, FDA proposes to amend the regulations in 21 CFR part 720 by removing the requirements regarding the filing of Form FDA 2513 in 21 CFR 720.1(b), 720.2(b), and 720.4(b). The agency also proposes to remove and reserve § 720.5 *Information requested about cosmetic raw materials*, which defines the contents of Form FDA 2513. In addition, FDA proposes to remove 21 CFR 720.9(b) which permits the uses of the Food and Drug Administration Cosmetic Raw Material Composition Statement Number (FDA CRMCS No.). If the agency adopts its proposal to discontinue the filing of raw materials statements, it will no longer assign numbers to these statements. Therefore, there will no longer be a need for a regulation that provides for the use of these numbers.

Other information currently registered on Form FDA 2513, namely, formulations representing a fragrance, flavor, "base," or "master batch," may, if this proposal is adopted, be registered on Form FDA 2512 as further explained elsewhere in this proposed rule.

While reviewing the remaining reporting requirements of 21 CFR part 720 and the impact of the reported information on the quality of the voluntary reporting program, FDA has identified several additional items in data reporting that it is proposing to change or to remove as appropriate.

Because of an administrative change in the identification of forms for filing cosmetic formulations and raw material composition statements, FDA is proposing that the new designations "Form FDA 2512" (for former "Form FD–2512") and "Form FDA 2514" (for former Form FD–2514") be adopted throughout the regulation.

FDA is proposing to remove from 21 CFR 720.4(c)(12) the skin care preparation categories "Hormone," "Skin lighteners," and "Wrinkle smoothing (removers)." These designations have consistently been the subject of regulatory controversy because these designations identify cosmetics that legally are also drugs. These designations were included in the list of product categories when the regulation was published in the **Federal Register** of April 11, 1972 (37 FR 7151), to permit the registration of these types of products as cosmetics but with the understanding that these products usually are legally drugs and cosmetics. However, this listing has been interpreted by cosmetic manufacturers and others to mean that FDA considers these products to be exclusively cosmetics. Removal of these category designations and registration of such products, if they are also cosmetics, under the remaining category

designations is expected to prevent future misunderstanding. For the same reason, FDA is proposing to change the designation of the suntan product category (21 CFR 720.4(c)(13)) to "Suntan preparations."

FDA is further proposing to change the name of the category "Face, body, and hand (excluding shaving preparations)" in 21 CFR 720.4(c)(12)(iii) to "Face and neck (excluding shaving prepartions)" and adding the new category "Body and hand (excluding shaving preparations)" in paragraph 21 CFR 720.4(c)(12)(iv). These changes permit more precise classification of skin care preparations according to human body exposure and accommodate proper categorization of products currently classified under "Hormore," "Skin lighteners," and "Wrinkle smoothing (removers)."

FDA proposes in revised § 720.4(d) that each ingredient listed on Form FDA 2512, including each ingredient that consists of a mixture of ingredients, be identified by the name appropriate for cosmetic ingredient labeling pursuant to § 701.3(c). Under the revised regulation, an ingredient representing a voluntarily registered formulation of a fragrance or flavor, or of a "base" or "master batch," would be identified as "fragrance," "flavor," "fragrance and flavor" or "base formulation," as appropriate, and by stating its FDA-assigned cosmetic product ingredient statement number. The agency proposes to amend § 720.4 by redesignating paragraph (d)(3) as paragraph (d)(5), by revising paragraphs (d)(2) and newly redesignated (d)(5), and by adding paragraphs (d)(3) and (d)(4).

FDA proposes to revise redesignated paragraph (d)(5) by removing the requirement for providing the product name or trade name for a fragrance or flavor mixture as well as the supplier's name. A review of the value of this information to FDA or others when released in accordance with § 720.8 and Freedom of Information regulations (21 CFR part 20) has demonstrated that it has not been as useful as originally envisioned.

FDA is not proposing to make the modification of 21 CFR 720.8 that CTFA requested. CTFA suggested dividing 21 CFR 720.8 into two sections by establishing an additional section consisting of paragraphs (b)(1) through (b)(6). The agency does not find any basis to conclude that the recommended change will clarify the existing regulation.

II. References

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

1. Petition of May 15, 1969 [Docket No. 89P-0180/0001] from the Cosmetic, Toiletry and Fragrance Association requesting amendment of 21 CFR part 720 to permit a simplified format for filing cosmetic product ingredient statements.

2. Letter of February 3, 1989, from the President, Cosmetic, Toiletry and Fragrance Association, to the Commissioner of Food and Drugs recommending adoption of a simplified format for filing statements of cosmetic product ingredients.

3. Memorandum of meeting of March 9, 1989, between representatives of the Food and Drug Administration and the Cosmetic, Toiletry and Fragrance Association on the issue of modification of the voluntary cosmetic registration program.

4. Letter of March 10, 1989, from the Commissioner of Food and Drugs to the President, Cosmetic, Toiletry and Fragrance Association, expressing concurrence with the suggested modification of the process of voluntary filing of cosmetic product ingredient statements.

5. Letter of September 28, 1989, from the Acting Associate Commissioner for Regulatory Affairs, Food and Drug Administration, to the President, Cosmetic, Toiletry and Fragrance Association, concurring with the interim adoption of filing cosmetic ingredient information on Form FDA 2512 without disclosure of semiquantitative data.

III. Reporting Forms

FDA will redesign Form FDA 2512 to accommodate the proposed changes and deletions. The current form may be used without detriment to register cosmetic product ingredient statements in accordance with the revised requirements. The agency will maintain a sufficient inventory of the current form to meet the requirements of participating firms and to ensure continuity of voluntary participation in the registration of cosmetic formulations. If the agency adopts this proposal, FDA will discontinue Form FDA 2513 at the time the final rule becomes effective. Form FDA 2514 remains unchanged. FDA will modify the instructions for completing Forms FDA 2512 and FDA 2514 and voluntary filing of cosmetic formulations, including those representing a "base formulation" or "master batch," in accordance with the proposed modifications of 21 CFR part 720.

IV. Paperwork Reduction Act of 1980

This proposed rule contains information collections which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35). The title, description, and respondent description of the information collections are shown below with an estimate of the annual reporting and recording burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Title: Modification in Voluntary Registration of Cosmetic Product Ingredient and Raw Material Composition Statements.

Description: The Food and Drug Administration is proposing to modify its program of voluntary filing of cosmetic product formulations and raw material compositions by eliminating the reporting of semiquantitative ingredient information, integrating raw material composition disclosures into cosmetic product formulation statements, and discontinuing the form for reporting raw material compositions (FDA 2513). This proposal would have no significant impact on the quality of the cosmetic registration program. The existing information collections have been approved under OMB Nos. 0910-0029, 0910-0030, and 0910-0031.

Description of Respondents: Businesses or other for-profit organizations.

Estimated Annual Reporting and Recordkeeping Burden

Section	Annual number of respondents	Annual frequency	Average burden per response	Annual burden hours
21 CFR 720.4 (Form FDA 2512)				
Existing	280	10	0.5	1,400
Proposed	310	10	0.3	930
21 CFR 720.5 (Form FDA 2513)				
Existing	40	10	0.5	200
Proposed	0	10	0	0

Section	Annual number of respondents	Annual frequency	Average burden per response	Annual burden hours
21 CFR 720.6 (Forms FDA 2512 and FDA 2514)				
Existing	2,250	1	0.2	510
Proposed	2,250	1	0.1	258
21 CFR 720.8 (Forms FDA 2512 and FDA 2514)				
Existing	12.5	1	(1)	(1)
Proposed	4	1	(1)	(1)

[1] Included in 21 CFR 720.4, 720.5 or 720.6.
Total existing annual burden hours, 2,100.
Total existing proposed burden hours, 1,188.
Total burden hours difference, 922 (44 percent reduction).

As required by section 3504(h) of the Paperwork Reduction Act of 1980, FDA has submitted a copy of this proposed rule to OMB for its review of these information collection requirements. Other organizations and individuals desiring to submit comments regarding this burden estimate or any aspects of these information collection requirements, including suggestions for reducing the burdens, should direct them to FDA's Dockets Management Branch (address above) and to the Office of Information and Regulatory Affairs, OMB, rm. 3208, New Executive Office Bldg., Washington, DC 20503, Attn: Desk Officer for FDA.

V. Environmental and Economic Impact

The agency has determined under 21 CFR 25.24(a)(11) that this proposed action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal and has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that no significant impact on a substantial number of small entities will derive from this action.

Interested persons may, on or before December 24, 1990, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 720

Confidential business information, Cosmetics, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 720 be amended as follows:

PART 720—[AMENDED]

1. The heading for part 720 is revised to read as follows:

PART 720—VOLUNTARY FILING OF COSMETIC INGREDIENT STATEMENTS

2. The authority citation for 21 CFR part 720 continues to read as follows:

Authority: Secs. 201, 301, 601, 602, 701, 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 361, 362, 371, 374).

3. Sections 720.1, 720.2, and 720.3 are revised to read as follows:

§ 720.1 Who should file.

Either the manufacturer, packer, or distributor of a cosmetic product is requested to file Form FDA 2512 ("Cosmetic Product Ingredient Statement"), whether or not the cosmetic product enters interstate commerce. This request extends to any foreign manufacturer, packer, or distributor of a cosmetic product exported for sale in any State as defined in section 201(a)(1) of the Federal Food, Drug, and Cosmetic Act. No filing fee is required.

§ 720.2 Times for filing.

Within 180 days after forms are made available to the industry, Form FDA 2512 should be filed for each cosmetic product being commercially distributed as of the effective date of this part. Form FDA 2512 should be filed within 60 days after the beginning of commercial distribution of any product not covered within the 180-day period.

§ 720.3 How and where to file.

Forms FDA 2512 and FDA 2514 ("Discontinuance of Commercial Distribution of Cosmetic Product") are obtainable on request from the Food and Drug Administration, Department of Health and Human Services, Washington, DC 20204, or at any Food and Drug Administration district office. The completed form should be mailed or delivered to: Cosmetic Product Statement, Food and Drug Administration, Department of Health and Human Services, Washington, DC 20204, according to the instructions provided with the forms.

4. Section 720.4 is amended in the introductory texts of paragraphs (a) and (b) by removing "FD–2512" and replacing it with "FDA 2512"; by removing paragraph (b)(5); by revising paragraphs (c)(12)(iii) through (c)(12)(v), (c)(12)(ix), and (c)(12)(x); by removing paragraphs (c)(12)(xi) and (c)(12)(xii); by revising the paragraph heading in the introductory text of paragraph (c)(13); by revising paragraph (d); and by removing in paragraph (e) "FD–2512" in the first and second sentences and replacing it with "FDA 2512" to read as follows:

§ 720.4 Information requested about cosmetic products.

* * * * *

(c) * * *

(12) * * *

(iii) Face and neck (excluding shaving preparations).

(iv) Body and hand (excluding shaving preparations).

(v) Foot powders and sprays.

* * * * *

(ix) Skin fresheners.

(x) Other skin care preparations.

(13) *Suntan preparations.* * * *

* * * * *

(d) Ingredients in the product should be listed as follows:

(1) A list of each ingredient of the cosmetic product in descending order of predominance by weight (except that the fragrance and/or flavor may be designated as such without naming each individual ingredient when the

manufacturer or supplier of the fragrance and/or flavor refuses to disclose ingredient data).

(2) An ingredient should be listed by the name adopted by the Food and Drug Administration (FDA) for that ingredient pursuant to § 701.3(c) of this chapter.

(3) In the absence of a name adopted by FDA pursuant to § 701.3(c) of this chapter, its common or usual name, if it has one, or its chemical or technical name should be listed.

(4) If an ingredient is a mixture, each ingredient of the mixture should be listed in accordance with paragraphs (d)(2) and (d)(3) of this section, unless such mixture is a formulation voluntarily registered on Form FDA 2512, in which case such mixture should be identified as "fragrance," "flavor," "fragrance and flavor" or "base formulation," as appropriate, and by stating its FDA-assigned cosmetic product ingredient statement number.

(5) When the manufacturer or supplier of a fragrance and/or flavor refuses to disclose ingredient data, the fragrance and/or flavor should be listed as such. The nonconfidential listing of the product name and/or trade name or name of the manufacturer or supplier of each proprietary fragrance and/or flavor mixture is optional.

* * * * *

§ 720.5 [Removed and Reserved]

5. Section 720.5 *Information requested about cosmetic raw materials* is removed and reserved.

6. Sections 720.6 and 720.7 are revised to read as follows:

§ 720.6 Amendments to statement.

Changes in the information requested under § 720.4 (a)(3) and (a)(5) on the ingredients or brand name of a cosmetic product should be submitted by filing an amended Form FDA 2512 within 60 days after the product is entered into commercial distribution. Other changes do not justify immediate amendment, but should be shown by filing an amended Form FDA 2512 within a year after such changes. Notice of discontinuance of commercial distribution of a cosmetic product should be submitted by Form FDA 2514 within 180 days after discontinuance of commercial distribution becomes known to the person filing.

§ 720.7 Notification of person submitting cosmetic product ingredient statement.

When Form FDA 2512 is received, FDA will either assign a permanent cosmetic product ingredient statement number or a Food and Drug Administration reference number in those cases where a permanent number cannot be assigned. Receipt of the form will be acknowledged by sending the individual signing the statement an appropriate notice bearing either the FDA reference number or the permanent cosmetic product ingredient statement number. If the person submitting Form FDA 2512 has not complied with § 720.4 (b)(1) and (b)(2), the person will be notified as to the manner in which the statement is incomplete.

7. Section 720.8 is amended by revising the first sentence in paragraph (a) to read as follows:

§ 720.8 Confidentiality of statements.

(a) Data and information contained in, attached to, or included with Forms FDA 2512 and FDA 2514, and amendments thereto are submitted voluntarily to the Food and Drug Administration (FDA). * * *

* * * * *

8. Section 720.9 is revised to read as follows:

§ 720.9 Misbranding by reference to filing or to statement number.

The filing of Form FDA 2512 or assignment of a number to the statement does not in any way denote approval by the Food and Drug Administration of the firm or the product. Any representation in labeling or advertising that creates an impression of official approval because of such filing or such number will be considered misleading.

Dated: August 6, 1990.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-25208 Filed 10-24-90; 8:45 am]

BILLING CODE 4160-01-M

Office of Human Development Services

45 CFR Part 1301

RIN 0980-AA32

Head Start Program

AGENCY: Administration for Children, Youth and Families (ACYF), Office of Human Development Services (OHDS), Department of Health and Human Services (HHS).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Administration for Children, Youth and Families is issuing this Notice of Proposed Rulemaking to revise and clarify for Head Start grantees the requirements implementing the statutory provision that limits development and administrative costs to 15 percent of total costs. This rule also clarifies that funds for training and technical assistance must be included in total approved costs and are, therefore, subject to the 20 percent non-Federal matching requirement.

DATES: In order to be considered, comments on this proposed rule must be received on or before December 24, 1990.

ADDRESSES: Please address comments to: Associate Commissioner, Head Start Bureau, Administration for Children, Youth and Families, P.O. Box 1182, Washington, DC 20013.

Beginning 14 days after close of the comment period, comments will be available for public inspection in Room 2217, 330 C Street SW., Washington, DC 20201, Monday through Friday between the hours of 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Dr. Maiso Bryant, (202) 245-0549.

SUPPLEMENTAL INFORMATION:

I. Program Description

Head Start is authorized under the Head Start Act (Act), section 635 of Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, (42 U.S.C. 9831, *et seq.*) It is a national program providing comprehensive developmental services primarily to low income preschool children, age three to the age of compulsory school attendance, and their families. To help enrolled children to achieve their full potential, Head Start programs provide comprehensive health, nutritional, educational, social and other services. In addition, Head Start programs are required to provide for the direct participation of parents of enrolled children in the development, conduct, and direction of local programs. In fiscal year 1989, Head Start served more than 450,000 children through a network of 1,284 grantees and more than 620 delegate agencies, each of which has an approved written agreement with a grantee to operate a Head Start program.

While Head Start is targeted primarily on children whose families have incomes at or below the poverty line or are eligible for public assistance, Head Start policy permits up to 10 percent of the children in local programs to be from families who do not meet these low income criteria. Head Start also requires that a minimum of 10 percent of the enrollment opportunities in each State be made available to handicapped children. Such children are expected to be enrolled in the full range of Head Start services and activities in a setting with their non-handicapped peers and to receive needed special education and related services.

II. Head Start Grantee Application

The Head Start grant application and 45 CFR 1301.32 currently require that grantees provide a statement that the costs of development and administration will not exceed 15 percent of the total approved costs. Additionally, the Standard Form 269, the quarterly financial status report, will require the reporting of the actual cost of development and administration for each budget period.

A proposed new revised grant application form and instructions were published as a notice with a request for public comments on December 28, 1988 (53 FR 52490). The new instructions would require grantees to indicate proposed administrative costs on the application.

III. Summary of the Proposed Regulation

The authority for this Notice of Proposed Rulemaking (NPRM) is section 644(b) of the Head Start Act (42 U.S.C. 9839), which limits reimbursement of the costs of developing and administering a Head Start program to 15 percent of total approved costs and requires the Secretary to establish, by regulation, criteria for determining the costs of developing and administering the Head Start program and for determining total approved costs. Also, section 640(b) (42 U.S.C. 9835) provides that the Secretary shall not require non-Federal contributions in excess of 20 percent of the total approved costs of programs or activities assisted under the Head Start program.

These changes are proposed in order to: (1) Clarify and emphasize the differences between project costs and development and administrative costs; (2) assist grantees in determining these costs; (3) clarify that training and technical assistance costs must be included in total approved costs and therefore are subject to the 20 percent matching requirement; and (4) assure that grantees are in compliance with the law. This NPRM incorporates material from an Information Memorandum entitled, "Limitations on Costs of Development and Administration," issued by the Administration for Children, Youth and Families and dated April 11, 1983.

The proposed rule:

- Revises and clarifies the definitions of the terms "development and administrative costs" and "total approved costs" and adds definitions for the terms "program costs" and "indirect costs;"
- Establishes and defines a new category of costs called dual benefit costs, i.e., costs that benefit both the program components as well as the development and administrative functions within the Head Start program;
- Provides that development and administrative costs, even if less than the 15 percent limitation, may not be approved where judged excessive;
- Specifies the situations for which a waiver can be granted by the responsible HHS official;
- Allows waiver periods not to exceed twelve months;
- Specifies that the grantee must include in its application information to meet the requirements regarding development and administrative costs; and
- Specifies that training and technical assistance funds awarded in grants must be included in the total approved costs and therefore are subject to the same matching requirements as other Head Start funds.

IV. Section by Section Discussion of the NPRM

Section 1301.2—Definitions

The proposed amendments to § 1301.2 provide definitions of terms used in the proposed rule. New definitions of the terms "program costs," "dual benefit costs," and "indirect costs" are added to the rule. Definitions for development and administrative costs and total approved costs are revised and clarified. For example, "total approved costs" is redefined as the approved costs of the Head Start program including training and technical assistance funds as indicated on the Financial Assistance Award. Total approved costs include both the Federal and the non-Federal share.

Section 1301.20—Matching Requirements

We are proposing to amend the current regulation at § 1301.20 to add a new paragraph (c) specifying that Federal financial assistance to Head Start grantees for training and technical assistance activities that support a Head Start program are part of the program's total approved costs. Such funds are, therefore, subject to the 20 percent non-Federal matching requirement. This clarification is necessary since, in the past, not all grantees have included training and technical assistance funds in their computation of total approved costs.

Section 1301.32—Limitations on Costs of Development and Administration of a Head Start Program

We propose to revise paragraph (a), Delete and add a new paragraph (b), and add new paragraphs (c) through (g). Currently, paragraph (a) sets forth the statutory requirements that development and administrative costs may not exceed 15 percent of the total approved cost. It allows the Responsible HHS Official to approve a higher percentage for periods not to exceed 6 month .. The proposed revision to paragraph (a) would (1) Change the approval for a higher percentage to a period not to exceed 12 months in accordance with the statute; and (2) provide that such costs, even if less than the 15 percent limitation, may not be approved where judged to be excessive.

Paragraph (b), which currently requires grantees to provide on their applications a statement of compliance with the 15 percent limitation has been deleted. A new paragraph (f) in this section proposes, among other things, to require applicants to delineate all development and administrative costs in their application.

In order to clarify and emphasize the difference between program costs and administrative costs, new paragraphs (b) and (c) provide examples.

New paragraph (d) proposes to establish a new cost category called dual benefit costs. These are costs that benefit both the program components and the development and administrative functions within the Head Start program. An example of a dual benefit cost would be the salary and fringe benefits paid to a Director/Education Coordinator of a small program. The percentage of time the individual performs the duties as the Director and that portion of the individual's salary would be determined and allocated as an administrative or development cost. The remainder of the salary would be allocated as a program cost for the time the individual acts as the Education Coordinator.

Paragraph (e) discusses the relationship between development and administrative costs and indirect costs.

Paragraph (f) proposes the requirements for grantee compliance with this rule including calculating the percentage of total approved costs that are allocated to development and administration and delineating those costs in the grant application.

Paragraph (g) specifies the situations under which the responsible HHS official may grant a waiver of the 15 percent limitation on development and administrative costs. These situations are: when a new Head Start grantee or delegate agency is being established, when an existing grantee or delegate agency is expanding the number of children, or when component services

are disrupted in an existing Head Start program due to circumstances beyond the control of the grantee.

Paragraph (g), allowing a grantee waiver for specific periods of time not to exceed twelve months, as stated earlier, is a change from the existing regulation which allows a waiver for periods not to exceed six months. The purpose of the change is to make the waiver period consistent with the language in the Act. Waivers can only be granted by the responsible Health and Human Services (HHS) official.

VI. Impact Analysis

Executive Order 12291

Executive Order 12291 requires that a regulatory impact analysis be prepared for major rules, which are defined in the Order as any rule that has an annual effect on the national economy of $100 million or more, or certain other specified effects. The Department concluded that these regulations are not major rules within the meaning of the Executive Order because they do not have an effect on the economy of $100 million or more or otherwise meet the threshold criteria.

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 by the Act to include small businesses, small non-profit organizations and other small entities. While these regulations would affect small entities, these requirements are not substantial and in most instances the small entities already meet some of the proposals. For these reasons, the Secretary certifies that these rules will not have a significant impact on substantial numbers 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 requirement inherent in a proposed or final rule. The proposed rule contains a new information collection requirement in § 1301.32(f)(2) which requires that certain information must be provided as a part of a grantee's application. We estimate that this proposed requirement will take each grantee approximately 2 hours annually to complete. As there are 1890 grantees and delegate agencies, the total number of hours annually will be 3780. This proposed requirement is reflected in the proposed new Head Start grant application which was published for public comment on December 28, 1988 (53 FR 5249), and for which OMB approval is being requested.

Organizations and individuals desiring to submit comments on the information collection requirement should direct them to the agency official designated for this purpose whose name appears in this preamble and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building (room 308), Washington, DC 20503. ATTN: Angela Antonelli, Desk Officer for the Office of Human Development Services.

List of Subjects in 45 CFR Part 1301

Head Start, Development and administrative costs, Program costs, Dual benefit costs, Indirect costs, Approved, Total/costs.

(Catalog of Federal Domestic Assistance Program Number 13.600, Project Head Start)

Dated: March 21, 1990.

Mary Sheila Gall,

Assistant Secretary for Human Development Services.

Approved: July 27, 1990.

Louis W. Sullivan,

Secretary.

For the reasons set forth in the Preamble, we propose to amend 45 CFR part 1301 as follows:

PART 1301—HEAD START GRANTS ADMINISTRATION

1. The authority citation for part 1301 is as follows:

Authority: 42 U.S.C. 9831 et seq.

2. Section 1301.2 is amended by revising the definitions for "development and administrative costs" and "total approved costs"; by adding alphabetically definitions for "dual benefit costs," "indirect costs," and "program costs"; and by republishing the introductory text, to read as follows:

§ 1301.2 Definitions.

For the purposes of this part, unless the context requires otherwise:

* * * * *

Development and administrative costs mean costs incurred in accordance with an approved Head Start budget which do not directly relate to the provision of program component services, including services to handicapped children, as set forth and described in the Head Start program performance standards (45 CFR part 1304).

Dual benefit costs mean costs incurred in accordance with an approved Head Start budget which directly relate to both development and administrative functions and to the program component services, including services to handicapped children, as set forth and described in the Head Start program performance standards (45 CFR part 1304).

* * * * *

Indirect costs mean those costs that are incurred by an agency for common or joint objectives and that cannot be readily identified with a particular program such as Head Start.

Program costs mean costs incurred in accordance with an approved Head Start budget which directly relate to the provision of program component services, including services to handicapped children, as set forth and described in the Head Start program performance standards (45 CFR part 1304).

* * * * *

Total approved costs mean the sum of all approved costs of the Head Start program approved for a given budget period by the Administration for Children, Youth and Families, as indicated on the Financial Assistance Award. Total approved costs consists of the Federal share plus the non-Federal share.

3. Section 1301.20 is amended by adding a new paragraph (c) as follows:

§ 1301.20 Matching requirements.

* * * * *

(c) Federal financial assistance awarded to Head Start grantees for training and technical assistance activities shall be included in the Federal share in determining the total approved costs of the program. Such financial assistance is, therefore, subject to the 20 percent non-Federal matching requirement of this subpart.

4. Section 1301.32 is revised to read as follows:

§ 1301.32 Limitations on costs of development and administration of a Head Start program.

(a) *General provisions.* (1) Reimbursement of costs of developing and administering a Head Start program may not exceed 15 percent of the total approved costs of the program, unless the responsible HHS official grants a waiver approving a higher percentage for a specific period of time not to exceed twelve months.

(2) The limit of 15 percent for development and administrative costs is a maximum. In cases where the costs for development and administration are at or below 15 percent, but are judged by the responsible HHS official to be excessive, the grantee must eliminate excessive development and administrative costs.

(b) *Development and administrative costs.* (1) Costs classified as development and administrative costs are those costs related to the overall management of the program. These costs can be both in the personnel and non-personnel categories.

(2) Grantees must charge the costs of organization-wide management functions as development and administrative costs. These functions include planning, coordination and direction; budgeting, accounting, and auditing; and managing purchasing, property, payroll and personnel.

(3) Development and administrative costs include, but are not limited to, the salaries of the executive director, Head Start director, center director, personnel officer, fiscal officer/bookkeeper, purchasing officer, secretary, payroll/insurance/property clerk, janitor for administrative office space and costs associated with volunteers carrying administrative functions.

(4) Other development and administrative costs include expenses related to administrative staff functions such as the costs allocated to fringe benefits, travel, per diem, transportation and training.

(5) Bookkeeping and payroll services, audits, bonding, insurance, office supplies, copy machines, postage, utilities and occupying, operating and maintaining space used for administrative purposes are development and administrative costs.

(c) *Program costs.* Program costs include, but are not limited to:

(1) Personnel and non-personnel costs directly related to the provision of program component services and component training and transportation for staff, parents and volunteers;

(2) Costs of functions directly associated with the delivery of program component services through the direction, coordination or implementation of a specific component;

(3) Costs of the salaries of program component coordinators and component staff, janitorial and transportation staff involved in program component efforts, and the costs associated with parent involvement and component volunteer services; and,

(4) Expenses related to program staff functions, such as the allocable costs of fringe benefits, travel, per diem and transportation, training materials, food, center/classroom supplies and equipment, parent activities funds and the occupation, operation and maintenance of program component space, including utilities.

(d) *Dual benefit costs.* (1) Some costs benefit both the program components as well as development and administrative functions within the Head Start program. In such cases, grantees must identify and allocate appropriately the portion of the costs that are developmental and administrative.

(2) Dual benefit costs include, but are not limited to, salaries, benefits and expenses of staff who perform both program and administrative and developmental functions. Grantees must determine and allocate appropriately, the part of these costs dedicated to administration and development.

(3) Space costs are frequently dual benefit costs. The grantee must determine and allocate appropriately, the amount or percentage of space dedicated to administration and development.

(e) *Relationship between development and administrative costs and indirect costs.* (1) Grantees must categorize costs in a Head Start program as development and administrative or program costs. These categorizations are separate from the decision to charge such costs directly or indirectly.

(2) Grantees must charge all costs, whether program or developmental and administrative, either directly to the project or as part of an indirect cost pool.

(f) *Requirement for compliance.* (1) Head Start grantees must calculate the percentage of their total approved costs allocated to development and administration as a part of their development of a budget for initial funding, refunding or for a request for supplemental assistance in connection with a Head Start program. These costs may be a part of the direct or the indirect cost pool.

(2) The Head Start grant applicant shall delineate all development and administrative costs in its application.

(g) *Waiver.* (1) The responsible HHS official may grant a waiver of the 15 percent limitation on development and administrative costs and approve a higher percentage for a specific period of time not to exceed twelve months. The conditions under which a waiver will be considered are listed below and encompass those situations under which development and administrative costs are being incurred, but the costs of providing actual services has not begun or has been suspended. A waiver may be granted when:

(i) A new Head Start grantee or delegate agency is being established or services are being expanded in an existing Head Start grantee or delegate agency, and the delivery of component services to children and famillies is delayed until all program development and planning is well underway or completed; or

(ii) Component services are disrupted in an existing Head Start program due to circumstances not under the control of the grantee.

(2) A Head Start grantee that estimates that the cost of development and administration will exceed 15 percent of total approved costs must submit a request for a waiver that explains the reasons for exceeding the limitation. This must be done as soon as the grantee determines there is a problem with the 15 percent limit, regardless of where the grantee is within the grant funding cycle.

(3) The request for the waiver must include the period of time for which the waiver is requested. It must also describe the action the grantee will take to reduce its development and administrative costs so that the grantee will be able to assure that these costs will not exceed 15 percent of the total approved costs of the program at the completion of the waiver period or in the future.

(4) If granted, the waiver and the period of time for which it will be granted will be indicated on the Financial Assistance Award.

(5) If a waiver, requested as a part of the grant application for funding or refunding, is not approved, no Financial Assistance Award will be awarded to the Head Start program until the grantee resubmits a revised budget that complies with the 15 percent limitation.

[FR Doc. 90-25219 Filed 10-24-90; 8:45 am]
BILLING CODE 4130-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90-452, RM-7424]

Radio Broadcasting Services; Aguila, AZ

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Michael R. Hagans, seeking the allotment of FM Channel 242A to Aguila, Arizona, as that community's

first local broadcast service. Since Aguila is located within 320 kilometers of the Mexican border, international coordination of this proposal with Mexico is required, pursuant to the terms of the *United States-Mexican FM Broadcasting Agreement of 1972*, 24 UST 1815, TIAS No. 7697. Coordinates for this proposal are 33–56–30 and 113–10–36.

DATES: Comments must be filed on or before December 13, 1990, and reply comments on or before December 28, 1990.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Michael R. Hagans, 1705 N. Queensbury St., Mesa, Arizona 85201.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–452, adopted September 27, 1990, and released October 22, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–25270 Filed 10–24–90; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 90–453, RM–7337]

Radio Broadcasting Services; Columbus, KS

AGENCY: Federal Communications Commission

ACTION: Proposed rule.

SUMMARY: This document requests comments on a proposal to substitute Channel 287C3 for Channel 252A at Columbus, Kansas. Petitioner also requests modification of its license for Station KOCD(FM), Channel 252A, to specify operation on Channel 287C3. The coordinates for Channel 287C3 are 37–04–02 and 94–50–10.

DATES: Comments must be filed on or before December 13, 1990, and reply comments on or before December 28, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Barbara L. Waite, Venable, Baetjer, Howard & Civiletti, 1201 New York Avenue, NW., Suite 1000, Washington, DC 20005 (counsel for the petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commissioner's Notice of Proposed Rule Making, MM Docket No. 90–453, adopted September 27, 1990, and released October 22, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–25271 Filed 10–24–90; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 89–367, RM–6835]

Radio Broadcasting Services; Klondike, SC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of.

SUMMARY: The Commission dismisses the request of Sandlapper Broadcasting to allot Channel 253A to Klondike, South Carolina, as its first local FM service. Comments expressing continuing interest were not filed by the petitioner or any other party.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–367, adopted September 26, 1990, and released October 22, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–25272 Filed 10–24–90; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 89–619; RM–7048]

Radio Broadcasting Services; Bridport, VT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of proposal.

SUMMARY: This document dismisses a petition filed by Peter S. Morton, based upon the lack of an expression of interest in pursuing the proposal by the petitioner or any other party. See 55 FR 1066, January 11, 1990. With this action, the proceeding is terminated.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–619, adopted September 27, 1990, and released October 22, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service (202) 857–3800, 2100 M Street NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–25273 Filed 10–24–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–451, RM–7237]

Radio Broadcasting Services; Laramie, WY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Jay Lellman proposing the allotment of Channel 283C2 to Laramine, Wyoming, as that community's fourth local FM service. Channel 283C2 can be allotted to Laramie consistent with the Commission's minimum distance separation requirements at coordinates 41–19–09 and 105–34–52.

DATES: Comments must be filed on or before December 13, 1990, and reply comments on or before December 28, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Jay Lellman, P.O Box 1307 Eau Claire, WI 54702 (petitioner)

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–451, adopted Septemer 26, 1990, and released October 22, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service (202) 857–3800, 2100 M Street NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcastng.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 909–25274 Filed 10–24–90; 8:45 am]

BILLING CODE 6710–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB52

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Lower Keys Population of the Rice Rat (Silver Rice Rat)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to list the Lower Keys population of the rice rat, or silver rice rat (*Oryzomys palustris natator* [=*Oryzomys argentatus*]), a small mammal restricted to wetlands of the Lower Keys of Monroe County, Florida as endangered. This species is known to occur on nine keys, generally at low population levels. It is believed extirpated from one key where it formerly occurred, and may also have been extirpated from two other keys. The species is endangered by habitat loss due to residential and commercial development, and by predation, competition, and habitat modification from various introduced mammals. Its low populations may endanger it because of reduced genetic variability. This proposal, if made final, would extend the protection of the Endangered Species Act of 1973, as amended, to the silver rice rat.

DATES: Comments must be received by December 24, 1990. Public hearing requests must be received by December 10, 1990.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, 3100 University Boulevard South, suite 120, Jacksonville, Florida 32216. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

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

SUPPLEMENTARY INFORMATION:

Background

Rice rats (*Oryzomys*) are New World rats of generalized rat-like appearance, with coarse fur and a long, sparsely-haired tail. The genus occurs from the southeastern U.S. and Mexico through Central America to northern South America. Rice rats occur on the Galapagos Islands and on several islands in the Caribbean. Hall (1981) recognized five subgenera, and over a dozen species, in North and Central America. Numi Spitzer (now Goodyear) trapped two rice rats in a fresh water marsh on Cudjoe Key in the Lower Keys of Monroe County, Florida in 1973, and believed that they represented a new species or subspecies of *Oryzomys* (Spitzer 1978). These two specimens were later used to describe a new species, *Oryzomys argentatus* (Spitzer and Lazell 1978). *Q. argentatus* was diagnosed as differing from other species in the subgenus *Oryzomys* (one of five subgenera in the genus *Oryzomys*) in lacking digital bristles projecting beyond the ends of the

median claws on the hind foot; and in having large, wide sphenopalatine vacuities; a slender skull with long narrow nasal bones; and silver-grey pelage dorsally. Spitzer and Lazell (1978) stated that *Q. argentatus* could be separated from *Q. palustris*, the common marsh rice rat of the southeastern U.S., by skull comparisons. They computed a ratio based on the maximum length of both nasals divided by their combined width; this number was then compared to the quotient of the condylobasal length divided by the zygomatic width. *Q. argentatus* specimens had high scores for both ratios, and could be separated from 105 *Q. palustris* by plotting the ratios on two axes. The measurements of the holotype and paratype specimens, respectively, in millimeters (inches) were: total length 251 (9¾, 259 (10¼); tail length, 121 (4¾), 132 (5¼); hind foot length, 32 (1¼), 32 (1¼); length of ear from notch, 17 (¾, 18 (¾) (Spitzer and Lazell 1978).

An unpublished report (Vessey *et al.* 1976) resulting from a biological study of Raccoon Key in the Lower Keys found that rice rats were common there; the investigators considered them to be *O. palustris* but subsequent examination showed that they were silver rice rats. In 1978 and 1979, Humphrey and Barbour (1979; Barbour and Humphrey 1982) trapped for silver rice rats at the type locality on Cudjoe Key and at sites on Little Torch, Middle Torch and Sugarloaf Keys. They caught no rice rats, and believed that the species had been extirpated from these keys. They also suggested that the characters used to distinguish *O. argentatus* were more indicative of subspecific rather than specific status.

In Service-funded status survey work (Spitzer 1982; Goodyear 1984), Goodyear trapped silver rice rats on eight additional Lower Keys, confirming their presence on Raccoon Key. The additional sites consisted of salt, rather than fresh water marsh. Using radiotelemetry, she found that silver rice rats used three vegetational zones: 1. Low intertidal areas, usually flooded, vegetated with mangroves (*Rhizophora mangle* and *Avicennia germinans*), and used for foraging and travelling; 2. Saltmarsh flats, flooded only occasionally, with low grassy vegetation (*Distichlis spicata, Batis maritima*, and *Sporobolus* sp.) and used for foraging and nesting; and 3. Elevated areas flooded only by the highest tides, vegetated with abundant grasses (*Distichlis* and *Sporobolus*), sea oxeye (*Borrichia frutescens*) and buttonwood (*Conocarpus erectus*), and used mainly for nesting. She found that silver rice rats had unusually large home ranges (about 20 hectares (50 acres)) and occurred at very low densities for a small rodent. Both plant (seeds and plant parts) and animal foods (arthropods) are taken by silver rice rats (Spitzer 1983). She was unable to find rice rats in the Upper Keys and concluded that inadequate marsh habitat was available there. Further information on the ecology of the silver rice rat is provided in Spitzer (1983).

Goodyear and Lazell (1986) compared nine skulls of *O. argentatus* (including some related laboratory-reared animals) with 109 skulls of six subspecies of *O. palustris*, using canonical discriminant function to analyze four skull variables (condylobasal length, zygomatic breadth, nasal length, and nasal width) and to generate three models based on preselected taxonomic arrangements. The statistic Roy's Greatest Root was used to determine which model best fit the data. It was concluded that the taxonomic arrangement with the best fit considered *O. argentatus* and *O. palustris* to be separate taxa.

Humphrey and Setzer (1989) revised the genus *Oryzomys* in the U.S., including six subspecies of *O. palustris*, *O. couesi*, and *O. argentatus*. They analyzed twelve skull measurements and pelage color. They did not include nasal width as a character (one of the characters considered diagnostic for *O. argentatus* by Spitzer and Lazell (1978)), citing the lack of a standard position for taking this measurement. Their quantitative analysis included 261 *Oryzomys;* all were adult males except for the five specimens of *O. argentatus* available to them, which consisted of four subadults and one adult of unknown sex. Adult male Oryzomys are regarded as being more likely to show diagnostic skull characters (Merriam 1901). Humphrey and Setzer first examined the existing taxonomic arrangement of U.S. *Oryzomys* with principle components analysis. Only minor differences were found; canonical discriminant analysis was then used to maximize intergroup differences. A simplified taxonomic arrangement was compared to the original classification, using both of the above statistical methods. Overlap among groups of the original and simplified classifications was compared by testing for misclassification of specimens with discriminant function analysis. To avoid recognizing trivial differences resulting from discriminant analysis, the original variables were subjected to analysis of variance to show how the groups defined actually differed. These authors pointed out that canonical-discriminant function, as used by Goodyear and Lazell (1986), is designed to find differences, and that it is necessary to determine whether differences found are biologically meaningful. A colorimeter was used in an attempt to quantify pelage color objectively, but the samples so measured were judged too small to be analyzed statistically. They expressed concern that pelage color might vary with age, both in living animals and museum specimens. They also noted that some mainland specimens of *O. palustris* had silver pelage. Humphrey and Setzer concluded that a simplified taxonomy was more appropriate for U.S. *Oryzomys*, including only two subspecies of *O. palustris*: *O.p. palustris* in most of the southeast and *O.p. natator* in peninsular Florida. *O. argentatus* was considered to be synonymous with *O.p. natator*.

Service actions regarding the silver rice rat began with the receipt of a petition dated March 12, 1980, from the Center for Action on Endangered Species, requesting that the silver rice rat be listed as an endangered species. In the **Federal Register** of July 14, 1980 (45 FR 47365), the Service issued a notice accepting the petition and announcing a status review of the species. The 1982 amendments to the Endangered Species Act required that petitions of this kind, which were pending as of October 13, 1982, be treated as having been received on that date. Section 4(b)(3) of the Act, as amended, requires that, within 12 months of the receipt of such a petition, a finding be made as to whether the requested action is warranted, not warranted, or warranted but precluded by other activity involving additions to or removals from the Federal Lists of Endangered and Threatened Wildlife and Plants. On October 13, 1983, the Service made the finding that the determination of endangered was warranted but precluded by other listing activity. That finding was published in the **Federal Register** of January 20, 1984 (49 FR 2487), as corrected in the **Federal Register** of February 16, 1984 (49 FR 5977). In the case of such a finding, the petition is recycled and another finding is due in 12 months. Repeated findings of warranted but precluded were made on October 12, 1984 (published on May 10, 1985 (50 FR 19762)); on October 11, 1985 (published on January 9, 1986 (51 FR 24312)); on October 10, 1986 (published on June 30, 1987 (52 FR 25512)); and on October 14, 1987 (published on July 7, 1988 (53 FR 25511)).

In 1986, Drs. Henry Setzer and Steven Humphrey of The Florida Museum of Natural History advised the Service's

Jacksonville Field Office that their taxonomic work on U.S. rice rats, then in progress, indicated that the silver rice rat was not distinguishable from mainland rice rats (*O. palustris*) at either the specific or subspecific level. These authors believe that the silver rice rat is only a peripheral population of *O.p. natator*, a subspecies common in fresh and salt water marshes throughout the Florida peninsula.

As a result of the Humphrey-Setzer findings, the Service's Southeastern Regional Office requested that any decision on proposing the silver rice rat be delayed until the taxonomic issue could be resolved, and recommended that a panel of Service zoologists review the taxonomic controversy. Three zoologists from the Service's Division of Research were detailed to this task in July, 1986; they concluded that the Lower Keys rice rats were "* * * a weakly distinguished geographical variant of *O. palustris* that may be known as *O. palustris argentatus* * * *". They recommended that additional material, particularly adult males, be collected to assist in determining the taxonomic status of the silver rice rat. Based on this continuing uncertainty, the Service made a negative petition finding on December 9, 1988 (published on December 29, 1988 (53 FR 52746)). On January 6, 1989 (54 FR 562), the Service placed the silver rice rat in category 3B of the animal notice of review, indicating that it was not a taxon that met the Endangered Species Act's definition of a species. Such entities are not current listing candidates, but additional information can lead to reevaluation of their suitability for listing.

On December 20, 1989, Sierra Club Legal Defense fund, Inc. filed suit on behalf of the silver rice rat and James D. Lazell, Jr. in the U.S. District Court for the District of Columbia (*Silver Rice Rat and James D. Lazell, Jr.* v. *Lujan*, Civil Action No. 89–389), challenging the Service's decision not to proceed with listing the silver rice rat. The complaint stated, in part, that the Service had not adequately addressed listing the silver rice rat as a distinct population segment as defined in section 3(15) of the Act.

In a **Federal Register** review notice dated April 26, 1990, the Service announced a review period for listing the silver rice rat as a vertebrate population and rescinded the negative petition finding for the silver rice rat, returning the petition finding to the "warranted but precluded" category until the conclusion of the review. The notice also solicited general comments concerning standards that should be used to define vetebrate populations under the Act.

In a Stipulation of Parties dated May 3, 1990, the Service agreed to announce the results of its reconsideration of the previous decision by October 25, 1990. It was further agreed that if listing was appropriate, the "warranted but precluded" status would not be repeated, but that a final listing regulation would be published by May 1, 1991. This listing proposal constitutes the Service's finding required by the Stipulation of Parties, and the final petition finding for the silver rice rat.

Comments

One comment was received in response to the Service's July 14, 1980, notice of petition acceptance and status review for the silver rice rat. The Florida Department of Transportation stated that future projects of that agency could affect rice rat habitat, and that they would cooperate to protect such habitat. They pointed out that further distribution and habitat information was important to minimize impact on silver rice rat habitat. Service response: The Service agrees that, at that time, further information was needed before listing the species; accordingly, the Service funded status survey work (Spitzer 1982, Goodyear 1984) to provide additional information on distribution and habitat.

Ten comments were received in response to the April 26, 1990, review notice. Comments addressed both the issue of listing the silver rice rat and general listing policy with regard to distinct population segments of vertebrate species. Commenters included five individuals, four conservation organizations, and the Service's Division of Research (Biological Survey). Eight comments supported the listing of the silver rice rat, while two comments questioned the listing. Comments, and Service responses, can be categorized as follows:

Comment: The April 26 notice of review was prepared solely by the Service's Jacksonville Field Office and lacked input from other Service units. The notice contained misleading statements concerning the Service's previous use of the vertebrate population listings, and was a tactic of the field office to delay listing the silver rice rat and to develop a vertebrate population definition to exclude cases like the silver rice rat. The resulting definition would lead to the delisting of numerous rodent subspecies, a reduction in listing activity, and a loss of biodiversity. Service response: The notice of review was prepared by the field office at the request of the Service's Washington Office, and was reviewed and approved by the Service and the Department of the Interior prior to **Federal Register** publication. The Service is currently developing guidance on the vertebrate population listing issue. All interested parties, will have an opportunity to comment on thi guidance once developed. The Service believes that the review notice description of current vertebrate population listings was generally accurate, while recognizing that there are listings that differ from those described. The notice was not intended to delay potential listing of the silver rice rat, but to obtain further information; this was achieved. Vertebrate population listing policy has no bearing on the listing of valid subspecies; subspecies are by definition qualified for protection as "species" under the Endangered Species Act. The Jacksonville Field Office has prepared recommendations leading to the listing of eleven subspecies of plants and animals (including seven small rodents) and two vertebrate populations, a large proportion of such Service listings. The Service will continue to actively pursue its responsibilities to list subspecies and vertebrate populations.

Comment: The listing of every population of a widely distributed species or subspecies would not be merited or practical under the Endangered Species Act. Service response: The Service agrees with this view and, as discussed above, is developing standards to provide guidance in the listing of vertebrate populations.

Comment: Data were manipulated in an improper scientific manner to cause the silver rice rat to be delisted (sic), and the paper on which this action was based may not have been refered. Service response: Since the silver rice rat has not previously been federally listed, the Service assumes that the comment refers to the Service's December 29, 1988 (53 FR 52748) negative petition finding for the silver rice rat. This decision was based on the taxonomic revision of Humphrey and Setzer (1989), then in press in the *Journal of Mammalogy*, a refereed journal. The Humphrey-Setzer revision was not undertaken for the purpose of removing taxonomic recognition from the silver rice rat, but rather to taxonomically revise U.S. rice rats. Four other taxa of *Oryzomys* were synonymized in addition to the silver rice rat. The work used widely accepted taxonomic and statistical techniques, and was published in the same journal in which the original description of the rice rat

(Spitzer and Lazell 1978) was published. The Service recognizes that different investigators often come to different taxonomic conclusions and rejects the claim that, in the case of the silver rice rat, improper scientific methods were used by any party.

Comment: The Service's Division of Research (Biological Survey) stated that the silver dorsal pelage of the silver rice rat was the primary feature distinguishing the silver rice rat from Florida peninsula populations of *O. palustris*. They believed that the Florida Keys population of rice rats warranted protection under the Endangered Species Act regardless of its taxonomic status. Service response: The Service has considered these recommendations in preparing this proposed rule.

Comment: Dr. Goodyear's comments in response to the notice have resolved the taxonomic questions concerning the silver rice rat, and there is no need to consider whether it constitutes a distinct population segment. Service response: The Service disagrees that the taxonomic issue is resolved. Dr. Goodyear's comments included a manuscript that has not yet been fully reviewed or accepted for publication. Existing taxonomies are often changed. It is likely that further interpretations and publications concerning the taxonomic status of the silver rice rat will appear, although the scientific community may eventually come to a consensus on what taxonomic rank best fits the silver rice rat. At all times, however, the Service attempts to use the best available scientific information to make listing decisions.

Comment: The silver rice rat is distinct for geographic and genetic reasons and merits listing. Service respone: The Service has considered these factors in developing this listing proposal.

Comment: Commenters suggested several factors that could be used to define distinct population segments, including disjunctness, ecology, morphological and other variations, U.S. populations, and research value. Service response: The Service will consider these, and othe factors, in developing any future guidance or regulations concerning the listing of vertebrate populations.

Comment: There is no need for a Service policy review concerning vertebrate population segments. Only a few such petitions have been received; these have been and should continue to be addressed on a case-by-case basis. Service response: The Service feels that it is appropriate to develop guidelines on the vertebrate population listing policy at this time. The issue is not restricted to the petition responses, but also involves evaluation of candidates for listing. Both the Fish and Wildlife and Natural Marine Fisheries Services have received a number of recent petitions involving vertebrate population segments, and feel it would be helpful to provide guidelines or standards to assist in evaluating petitions and making decisions on listing candidates. The use of such standards would not obviate individual, case-by-case review of petitions or listing candidates.

Comment: Dr. Humphrey's comments noted the lack of diagnostic material (adult males) available during his work, and the difficulty in obtaining such material due to the endangered status of the silver rice rat afforded by the State listing (chapter 39–27.0011 of the Florida Administrative Code prohibits kill-taking of endangered and threatened species). He commented on the importance of locally adapted populations to provide resilience to environmental change, and the fact that many extirpations of local populations have occurred, and continue to occur, in Florida. In his opinion, the extent to which the Service listed vertebrate populations would be fundamentally a political decision. He noted that the Endangered Species Act was designed to prevent extinction, not endangerment, and thus was directed to a crisis condition. He included a manuscript showing that the methods used to revise U.S. rice rats (Humphrey and Setzer 1989) were able to distinguish a weakly differentiated extinct species of rice rat in Jamaica. Service response: The conservation importance of locally adapted populations will be considered in formulating guidance on vertebrate population listings. The Service notes that the threatened category under the Act does allow the Service to list species before they are endangered, but agrees that species may often have severe conservation problems before they are listed.

Comment: Dr. Goodyear's comments addressed the taxonomic question concerning the silver rice rat. She enclosed a manuscript providing further information supporting the distinctiveness of the species. Dr. Goodyear reiterated her belief that the silver rice rat represented a distinct species. She stated that the Humphrey and Setzer (1989) paper was not a sound analysis of *O. argentatus* for the following reasons: No known adult males of *O. argentatus* were examined. The colorimetric data were plotted on different scales. Only one diagnostic skull measurement was used. Dr. Goodyear stated that the only taxonomic question concerning the silver rice rat was whether it was a species or subspecies, but that it would qualify as a distinct population segment for the following reasons: The silver rice rat is geographically separated, ecologically distinct (living in salt marshes and mangroves, and having a very large home range), and is morphologically distinct in pelage color and skull measurements from *O. palustris*. Dr. Goodyear's manuscript, entitled "The taxonomic status of the silver rice rat, *Oryzomys argentatus*", expanded on her previous taxonomic work.

Her ecological work in the Lower Keys in 1987-1988 resulted in the trap-deaths of ten silver rice rats, including seven adult males. Dr. Goodyear examined adult males of thirteen silver rice rats and 73 *O. palustris*. She used canonical discriminant function to separate seven designated taxa of *Oryzomys* and determined the Mahalonobis distance between each of the seven centroids. She found that silver rice rat males formed a distinct cluster, which was not affected by including laboratory-reared animals, but that only two of six female silver rice rats could be correctly classified by the discriminant analysis model generated using the ten males. Dr. Goodyear noted that specimens of *O. couesi*, currently considered a species by some mammologists, were more similar to *O. palustris* than *O. argentatus*, indicating that *O. argentatus* merited specific rank. She stated that adult males were necessary to distinguish silver rice rats on the basis of skull characteristics, but that pelage color could always be used to distinguish female silver rice rats from *O. palustris*. Dr. Goodyear noted that the pelage of silver rice rats had maintained its distinctive coloration in the 57 wild-caught, captive-reared and museum specimens with which she was familiar. She concluded that Humphrey and Setzer were not justified in placing *O. argentatus* in synonymy with *O. palustris*, because they did not examine the necessary diagnostic adult male silver rice rats specimens in their work.

Service response: The Service agrees that recently published taxonomic evaluations of *O. argentatus* have examined different specimens, used different measurements, and different statistical methodologies (see discussion below). The Service notes that the suggested ecological differences between the silver rice rat and mainland *O. palustris* may be exaggerated; *O. palustris* is common in many wetland habitats, including salt marshes (Wolfe 1982) while the silver rice rat apparently

uses fresh water marshes when available (Spitzer and Lazell 1978). Dr. Goodyear's comments and new information have been incorporated into this listing proposal (see discussion below).

After reviewing the best available information on the taxonomy of the silver rice rat, the Service makes the following observations. The taxonomic treatments discussed above (Spitzer and Lazell 1978; Goodyear and Lazell 1986; Humphrey and Setzer 1989) examined different samples, used different statistical techniques, and formed different opinions on the significance of the variation in *Oryzomys*. The principal characteristics analyzed consisted of skull measurements and pelage color. Humphrey and Setzer (1989) were limited in the material of *O. argentatus* available to them, lacking adult males, and were unable to find persuasive evidence that specific or subspecific status was warranted for the silver rice rat. They speculated that a larger sample of silver rice rats would be likely to have larger variance, further indicating the relationship of *O. argentatus* to mainland *O. palustris*. Dr. Goodyear's recent information, however, indicates that the silver pelage color and differences in skull ratios have remained distinctive as more material of Lower Keys rice rats has become available. She intends to publish her manuscript in the near future.

The Service panel, as well as another mammalogist, believe that the silver rice rat merits subspecific rank. It is difficult, to predict what analysis of this material by Humphrey and Setzer's (1989) methods would yield; the interpretation of observed differences would continue to be subjective. The taxonomic questions concerning the silver rice rat appear likely to be reexamined and discussed by taxonomic mammalogists into the future. At this time, the Service reserves judgement on the appropriate taxonomic rank (species, subspecies, or population) for the silver rice rat. The scientific community may come to a prevailing view on this matter in the future. However, the Service concludes that, regardless of its taxonomic status, the silver rice rat currently qualifies for protection under the Endangered Species Act because it constitutes a distinct population segment, and therefore a "species", as defined by section 3(15) of the Act. The silver rice rat of the Lower Florida Keys is disjunct from the rice rats of the Florida mainland, with very little potential for interbreeding with those populations; it has developed at least two consistent, nearly exclusive morphological characteristics (silver pelage and elongate nasal bones). A number of other vertebrate populations of the Lower Florida Keys are accepted as subspecies, indicating that natural selection has resulted in the evolution of a number of differentiated vertebrate population there. (Two mammal subspecies already federally listed as endangered species in the Lower Keys are the Key deer (*Odocoileus virginianus clavium*) and the Lower Keys rabbit (*Sylvilagus palustris hefneri*)).

Summary of Factors Affecting the Species

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

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The ancestor of the silver rice rat may have colonized the Lower Florida Keys during the late Pleistocene, when sea levels were lower than at present. The cooler climate prevailing at that time, and the larger explosed land mass, would have supported more extensive mangrove forests and salt marshes than exist currently. Rising sea levels several thousand years ago reduced the land area of the Lower Keys to their current configuration, probably fragmenting and reducing the distribution and numbers of the silver rice rat (Spitzer 1983). In recent times, human impacts have further reduced silver rice rat populations. A known population on Cudjoe Key was recently extirpated (Barbour and Humphrey 1982), and Goodyear (1984) believed that the species recently occurred on Big Pine and Boca Chica Keys, where suitable habitat still exists but where she was unable to trap rice rats.

The silver rice rat is currently known from transitional wetland area on eight keys (Big Torch, Johnston, Middle Torch, Raccoon, Saddlebunch, Little Pine, Summerland, and Water Keys), where it usually occurs at very low densities for a small rodent. (Spitzer 1982; Goodyear 1984). Goodyear (1984) had only 0.47 percent trap success over the course of her survey work, although she had a 5.2 percent trap success rate on Johnston Key, an off-road key; and Vessey *et al.* (1976) considered rice rats to be common on Raccoon Key, where they had a 9.5 percent capture rate.

Much silver rice rat habitat has been lost because of commercial and residential development during the past few decades. Remaining habitat on the highway keys continues to be filled for house pads, driveways, and other purposes.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* The silver rice rat is one of the most recently named species of mammals in the United States, and there are interesting questions concerning its taxonomic status, relationship to other rice rats, behavior, and ecology. Therefore, it is likely that specimens will continue to be sought by collectors for purposes of scientific study, or by amateur naturalists. Silver rice rat populations on the on-road keys may have abnormally low densities, and collecting could have serious effects. This proposed regulation would add the additional protections against take provided by the Endangered Species Act.

C. *Disease or predation.* Goodyear (1983) found that raccoons preyed on silver rice rats. Although a native mammal of the Lower Keys, raccoons on developed keys may be unnaturally abundant due to the availability of human garbage as food. This increase may have adversely affected silver rice rat populations on these keys.

D. *The inadequacy of existing regulatory mechanisms.* The silver rice rat is listed as endangered by the Florida Game and Fresh Water Fish Commission (chapter 39–27.003, Florida Administrative Code) and is protected from pursuit, harm, harassment, capture, possession, or killing (chapter 39–27.002 and 39–27.011, Florida Administrative Code). This protection does not, however, address habitat destruction.

Portions of the range of the silver rice rat are included in Great White Heron National Wildlife Refuge and National Key Deer Refuge. Federal listing of this species would increase consideration or the habitat needs of this species in refuge management decisions.

E. *Other natural or manmade factors affecting its continued existence.* The black rat (*Rattus rattus*), an introduced Old World rat, is found on many of the Lower Florida Keys, particularly near human habitation. It may compete with the silver rice rat for space and food. The black rat is abundant on Big Pine and Coca Chica Keys, and may have contributed to the disappearance of silver rice rats from these keys. Conversely, silver rice rats are relatively abundant on Johnston (Goodyear 1984)

and Raccoon (Vessey *et al.* 1976) Keys, where black rats are absent.

On Raccoon Key, a breeding colony of rhesus monkeys (*Macaca mulatta*) has been introduced and maintained. The monkeys have defoliated the fringing mangrove trees on this key, making the silver rice rat more vulnerable to storm effects and predation.

Because of the limited amount of habitat suitable for the silver rice rat, and its large home range, further habitat fragmentation could reduce silver rice rat populations to the point that adequate genetic viability for long-term survival is not maintained.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that "critical habitat" be designated "to the maximum extent prudent and determinable" concurrent with the determination that a species is endangered or threatened. The Service finds that designation of critical habiat is not prudent at this time. As noted in factor "B" in the "Summary of Factors Affecting the Species", there may continue to be interest in collecting specimens of the silver rice rat. Most populations are of such low density that removal of even a few individuals may be deleterious to this species. Publication of critical habitat descriptions and maps could increase enforcement problems and expose the species to undesirable collecting and disturbance, placing its survival in further jeopardy. Habitat protection for the silver rice rat will be addressed through the Act's section 7 jeopardy standard.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened pursuant to the 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 Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened, and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely 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. Currently known Federal activities that may affect the silver rice rat include the management of the Service's Great White Heron and Key Deer National Wildlife Refuges, and the U.S. Army Corps of Engineer's wetland permitting activities in the Lower Keys. These Federal agency activities, among others, will require conference or consultation with regard to any aspects that may affect the silver rice rat.

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

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

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as efective as possible. Therefore, comments and suggestions regarding any aspect of this proposal are hereby solicited from the public, concerned governmental agencies, the scientific community, industry, and other interested parties. Comments are particularly sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to the silver rice rat;

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

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

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

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

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and directed to the party named in the above "**ADDRESSES**" section.

National Environmental Policy Act

The Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared for 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** of October 25, 1983 (48 FR 49244).

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Author

The primary author of this proposed rule is Dr. Michael M. Bentzien, U.S. Fish and Wildlife Service, 3100 University Boulevard South, suite 120, Jacksonville, Florida 32216.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Imports, Exports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order under "MAMMALS", 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						
MAMMALS							
*	*	*	*	*	*	*	
Rat, rice (-silver rice)	Oryzomys palustris natator [-O. argentatus].	U.S.A. (FL)	Lower FL Keys (west of the Seven Mile Bridge).	E		NA	NA
*	*	*	*	*	*	*	

Dated: October 19, 1990.

Richard M. Smith,

Director, Fish and Wildlife Service.

[FR Doc. 90–25196 Filed 10–24–90; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 638

[Docket No. 901069–0269]

RIN 0648–AD28

Coral and Coral Reefs of the Gulf of Mexico and the South Atlantic

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

ACTION: Proposed rule.

SUMMARY: NOAA issues this proposed rule to implement Amendment 1 to the Fishery Management Plan for Coral and Coral Reefs of the Gulf of Mexico and the South Atlantic (FMP). This proposed rule would (1) Provide for a limited harvest of certain octocorals; (2) require a permit to take such octocorals; (3) provide for reports of harvest by selected persons who are permitted to take such octocorals; (4) limit the recreational harvest of such octocorals; (5) condition the renewal of coral permits on the submission of all required reports during the 12 months preceding the renewal application; and (6) make other changes to clarify the regulations and conform them to current usage. The intended effect of this rule is to conserve and manage the coral resources.

DATES: Written comments must be received on or before December 6, 1990.

ADDRESSES: Requests for copies of the FMP, which includes a regulatory impact review/environmental assessment (RIR/EA) should be sent to the Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 881, Tampa, Florida 33609, or the South Atlantic Fishery Management Council, Southpark Building, Suite 306, One Southpark Circle, Charleston, South Carolina 29407–4699

Comments on the proposed rule should be sent to Michael E. Justen, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702

Comments on the information collection requirements should be sent to Edward E. Burgess, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702, and to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Washington, DC 20503 (Attention: Desk Officer for NOAA).

FOR FURTHER INFORMATION CONTACT: Michael E. Justen, 813–893–3722.

SUPPLEMENTARY INFORMATION: Coral and coral reefs in the exclusive economic zone (EEZ) off the South Atlantic coastal states and in the Gulf of Mexico are managed under the FMP prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils), and its implementing regulations at 50 CFR part 638, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). Amendment 1 to the FMP would provide for a limited harvest of certain octocorals, implement conservation and management measure for such octocorals, add to the FMP a definition of overfishing, and restate the FMP's determination of optimum yield (OY) to include octocorals.

Allowable octocorals, which are octocorals other than seafans, are harvested in small quantities, estimated

to be less than 20,000 colonies per year, by the aquarium trade. Such harvest is considered to be within the capability of octocorals to regenerate. Accordingly, Amendment 1 would authorize such harvest with appropriate management measures.

To control the harvest of allowable octocorals, most of which occur in waters adjacent to Florida, a commercial or recreational permit to take these octocorals in the EEZ would be required. In lieu of a Federal permit, a state permit for the state of landing would suffice. Florida provides for a commercial marine life license and a recreational salt water fishing license, either of which would meet the permit requirement. An individual holding a commercial permit would not be restricted to a bag and possession limit, but a holder of a recreational permit would be limited to six colonies of allowable octocorals per day. The cost of the Federal commercial permit would not exceed the administrative cost of processing the application, $20. The cost of the Federal recreational permit would be $5.

Allowable octocoral taken as incidential catch without a permit would have to be returned to the sea. Allowable octocoral incidentally taken in fisheries such as the groundfish and scallop fisheries, where catch is not sorted on board, would be allowed to be landed but could not be sold, traded, or bartered, as is the case with prohibited coral.

A person fishing for allowable octocoral in the EEZ with either a Federal or state of landing permit or license would agree to be subject to the regulations in this part or, if the state of landing catch, landing, or gear requirements were more restrictive, to the state requirements. The applicable Federal or state of landing catch, landing, or gear requirements, except for seasonal closures, would apply without regard to whether fishing occurs in the EEZ or landward of the EEZ and without regard to where the allowable octocoral or gear are possessed, taken, or landed.

A person with a Federal permit to take allowable octocoral and who is selected by the Science and Research Director would be required to report harvests of such octocoral. This requirement to report would be exercised only in the event that there are significant numbers of Federal permit holders who would not be included in the statistical reporting requirements of Florida. In any event, a means would be provided for determining the level of annual harvest so that the annual quota is not exceeded.

An annual quota would be established of 50,000 colonies of allowable octocoral from the EEZ. When the quota is reached, or is projected to be reached, no further harvest of allow able octocoral from the EEZ would be allowed.

Amendment 1 would define overfishing of coral and coral reef as an annual harvest that exceeds OY, which is zero for prohibited coral and 50,000 colonies of allowable octocoral per year from the EEZ. Further information on this definition, on the revised statement of OY for corals, and on allowable octocorals and their management measures is contained in Amendment 1, the availability of which was announced in the Federal Register on September 26, 1990 (55 FR 39310).

In addition to the changes contained in Amendment 1, NOAA proposes additional changes to clarify the regulations and conform them to current usage. The purpose and scope section (§ 638.1(b)) would be modified to express the scope of the regulations in the broadest terms consistent with the FMP. NOAA has determined that the public is better served by a general expression of scope in this section, with the specific scope of each management provison or measure specified in that provision or measure. This approach avoids the possibility of misleading fishermen, dealers, and processors as to the scope of the regulations in this part.

To clarify the use of chemicals to take fish and other marine organisms, the terms "allowable chemical" and "toxic chemical" would be defined. In accordance with the intent of the FMP, an allowable chemical may be used with a permit, while a toxic chemical may not be used.

The definition of "management unit" would be removed because that term is not used in the regulations.

The existing permit requirements would be reordered for clarity and to conform them to current usage. Additional identifying information would be required of applicants for permits, and the renewal of permits would be conditioned on compliance with all applicable reporting requirements during the 12 months immediately preceding the renewal application. NOAA believes that a permittee who has not complied with applicable reporting requirements should not receive renewal of his permit.

The prohibitions section (§ 638.5) would be rewritten to provide a specific prohibition applicable to each management measure. Other minor changes are proposed for clarity and to remove redundancies.

Specific authority would be added to cover the existing data collection program that is carried out by NMFS statistical reporting agents and to require that coral be made available, upon request, to an authorized officer.

Classification

Section 304(a)(1)(D)(ii) of the Magnuson Act, as amended by Public Law 99-659, requires the Secretary of Commerce (Secretary) to publish regulations proposed by a Regional Fishery Management Council within 15 days of receipt of an FMP amendment and regulations. At this time, the Secretary has not determined that Amendment 1, which this proposed rule would implement, is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period.

This proposed rule is exempt from the procedures of E.O. 12291 under section 8(a)(2) of that order. It is being reported to the Director, Office of Management and Budget, with an explanation of why it is not possible to follow the procedures of that order.

The Assistant Administrator for Fisheries, NOAA, has initially determined that this proposed rule is not a "major rule" requiring the preparation of a regulatory impact analysis under E.O. 12291. This proposed rule, if adopted, is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Councils prepared a regulatory impact review (RIR), which concludes that Amendment 1, if adopted, would have the economic effects summarized as follows. The setting of an annual level of harvest of octocoral above the current level of harvest will provide for expansion of the fishery without jeopardizing the biological integrity of the stock. Requiring a Federal permit to harvest allowable octocoral from the EEZ, or a state of landing permit or license, will affect few harvesters as most harvest of allowable octocoral takes place in waters adjacent to Florida where harvesters are licensed. A bag and possession limit of six colonies of allowable octocoral for recreational

users collecting for personal aquaria will be ample, according to public testimony obtained at hearings.

The Councils concluded that this rule will not have a significant economic impact on a substantial number of small entities for the reasons summarized as follows. The number of commercial harvesters of allowable octocoral is not known but is believed to be less than 100. Current harvest of octocoral is thought to be less than 20,000 colonies per year. An allowable harvest of 50,000 colonies per year would not adversely impact commercial users. The number of recreational harvesters who take octocorals is also not known, but a bag and possession limit of six colonies was recommended by these harvesters. Only a few individuals are expected to take coral from the EEZ without a Florida permit, thus few Federal permits will be required. However, if this number becomes significant, the Science and Research Director may monitor the catch by requiring reporting by these individuals. Accordingly, the General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. No regulatory flexibility analysis was prepared.

The Councils prepared an environmental assessment (EA) that discusses the impact on the environment as a result of this rule. A copy of the EA may be obtained at the address listed above and comments on it are requested.

The Councils have determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Alabama, Florida, Louisiana, Mississippi, North Carolina, and South Carolina. Georgia and Texas do not participate in the coastal zone management program. These determinations have been submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act.

This proposed rule contains two new collections of information subject to the Paperwork Reduction Act, namely, applications for annual Federal permits to take allowable octocorals and catch reports from selected Federal permittees. Requests to make these collections have been submitted to the Office of Management and Budget (OMB) for approval. The public reporting burdens for these collections of information are estimated to average 15 minutes each per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This proposed rule restates for clarity the application procedures for permits to take prohibited coral and to use an allowable chemical in a coral area. Those collections of information were previously approved and OMB control number 0648–0205 applies. The public reporting burden for those collections of information were estimated to average 15 minutes each per response including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burdens, to Edward E. Burgess, NMFS, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (see **ADDRESSES**, above).

This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

List of Subjects in 50 CFR Part 638

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: October 19, 1990.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 638 is proposed to be amended as follows:

PART 638—CORAL AND CORAL REEFS OF THE GULF OF MEXICO AND THE SOUTH ATLANTIC

1. The authority citation for part 638 continues to read as follows:

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

§ 638.1 [Amended]

2. In § 638.1, in paragraph (b), the phrase "by fishing vessels of the United States" is removed.

3. In § 638.2, the definition for *Management area* is removed; new definitions for *Allowable chemical, Allowable octocoral, Colony,* and *Toxic chemical* are added in alphabetical order; and the definitions for *Prohibited coral* and *Take* are revised to read as follows:

§ 638.2 Definitions.

* * * * *

Allowable chemical means a substance, generally used to immobilize marine life so that it can be captured alive, that, when introduced into the water:

(a) Does not take prohibited coral; and

(b) Is allowed by Florida for the harvest of tropical fish (e.g., quinaldine, quinaldine compounds, or similar substances).

Allowable octocoral means a species of coral outside an HAPC and belonging to the Subclass Octocorallia, except the seafans *Gorgonia flabellum* and *G. ventalina.*

Colony means a continuous group of coral polyps forming a single unit.

* * * * *

Prohibited coral means—

(a) A species of coral belonging to the Class Hydrozoa (fire corals and hydrocorals),

(b) A species of coral belonging to the Class Anthozoa, Subclass Zooantharia (stony corals and black corals),

(c) A seafan, *Gorgonia flabellum* or *G. ventalina,*

(d) A coral reef, except for allowable octocorals, or

(e) Coral in an HAPC.

* * * * *

Take means to damage, harm, kill, possess, or attempt to damage, harm, kill, or possess.

Toxic chemical means any substance, other than an allowable chemical, that, when introduced into the water, can stun, immobilize, or take marine life.

4. In § 638.4, paragraphs (a) and (c) through (g) are revised and new paragraphs (h) through (m) are added to read as follows:

§ 638.4 Permits and fees.

(a) *Applicability*—(1) *Federal permits.* A Federal permit is required each fishing year for a person to—

(i) Take prohibited coral in the EEZ,

(ii) Use an allowable chemical to collect fish or other marine organisms in a coral area in the EEZ, or

(iii) Take an allowable octocoral in the EEZ.

(2) *Acceptable state permits*—(i) A Florida permit is acceptable in lieu of the Federal permit to use an allowable chemical to collect fish or other marine organisms in a coral area in the EEZ.

(ii) A state of landing permit or license applicable to allowable octocorals is acceptable in lieu of the Federal permit to take an allowable octocoral in the EEZ. A person who applies for a permit to take an allowable octocoral under paragraph (c)(3) of this section, or who uses a valid state of landing permit or license to take an allowable octocoral in the EEZ, must agree as a condition of using either permit that his/her catch, landing, or gear (without regard to whether fishing occurs in the EEZ or

landward of the EEZ, and without regard to where allowable octocoral or gear is possessed, taken, or landed) will be subject to the requirements of this part. If a regulation in this part and a catch, landing, or gear regulation of a state of landing differ, a person issued a permit under paragraph (c)(3) of this section or using a valid state permit or license to take an allowable octocoral from the EEZ must comply with the more restrictive regulation. In the event there is not equivalent regulation in this part to a state of landing catch, landing, or gear regulation, a person issued a permit under paragraph (c)(3) of this section or using a valid state permit or license applicable to an allowable octocoral harvested form the EEZ must comply with such state regulation.

* * * * *

(c) *Application.* An application for a Federal permit must be signed and submitted by the applicant on an appropriate form, which may be obtained from the Regional Director. The application should be submitted to the Regional Director at least 45 days prior to the date on which the applicant desires to have the permit made effective. An applicant must provide the following information.

(1) *For a prohibited coral permit:*

(i) Name, mailing address including zip code, and telephone number of the applicant;

(ii) Social security number and date of birth of the applicant;

(iii) Name and address of harvester, company, institution, or affiliation;

(iv) Amount of coral to be fished for by species;

(v) Size of each species;

(vi) Projected use of each species;

(vii) Collection techniques (vessel types, gear, number of trips);

(viii) Period of fishing; and

(ix) Location of fishing.

(2) *For an allowable chemical permit:*

(i) Name, mailing address including zip code, and telephone number of the applicant;

(ii) Social security number and date of birth of the applicant;

(iii) Type of chemical to be used;

(iv) Period of fishing; and

(v) Location of fishing.

(3) *For an allowable octocoral permit:*

(i) Name, mailing address including zip code, and telephone number of the applicant;

(ii) Social security number and date of birth of the applicant;

(iii) Whether applicant desires a commercial or recreational permit (see paragraph (d) of this section for appropriate fees and § 638.21(b) for the recreational bag and possession limit);

(iv) Estimated number of colonies to be taken during the fishing year;

(v) If the applicant is a corporation, the name and position of the signer; and

(vi) A sworn statement that the applicant agrees to conform to each regulation on allowable octocoral of this part or to any catch, landing, or gear regulation on allowable octocoral of the state of landing, if such state regulation is more restrictive than the regulation in this part or there is no equivalent regulation in this part, regardless of where such allowable octocoral or gear is possessed, taken, or landed.

(d) *Fees.* (1) A fee will be charged for each application submitted under paragraph (c)(3) of this section for an allowable octocoral permit as follows:

(i) Application for a commercial permit—$20.

(ii) Application for a recreational permit—$5.

(2) The appropriate fee must accompany each permit application.

(e) *Issuance.* (1) The Regional Director will issue a permit at any time during the fishing year to an applicant if:

(i) The application is complete; and

(ii) The applicant has complied with all applicable reporting requirements of § 638.7 during the 12 months immediately preceding the application.

(2) Upon receipt of an incomplete application, or an application from a person who has not complied with all applicable reporting requirements of § 638.7 during the 12 months immediately preceding the application, the Regional Director will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 30 days of the Regional Director's notification, the application will be considered abandoned.

(f) *Permit conditions.* (1) It is a condition of each permit issued under paragraph (c)(3) of this section or any state permit used to take octocorals in the EEZ that each regulation on allowable octocoral in this part or any catch, landing, or gear regulation on allowable octocoral of the state of landing, if such state regulation is more restrictive than the regulation in this part or there is not equivalent regulation in this part, applies to the permittee, regardless of where such allowable octocoral is possessed, taken, or landed.

(2) Other conditions and restrictions that may be necessary for the conservation and management of corals may be specified on a permit.

(g) *Duration.* A permit remains valid for the remainder of the fishing year for which it is issued unless revoked, suspended, or modified pursuant to support D of 15 CFR part 904.

(h) *Transfer.* A permit issued under this section is not transferable or assignable.

(i) *Display.* A Federal permit issued under this section, or an acceptable state permit or license as specified in paragraph (a)(2) of this section, must be in the possession of the permittee while fishing for prohibited coral in the EEZ, using an allowable chemical in a coral area in the EEZ, or fishing for an allowable octocoral in the EEZ. Such Federal permit, or acceptable state permit or license, must be presented for inspection upon the request of an authorized officer. A permittee must have in possession documentation to establish identity as the permittee (e.g., driver's license).

(j) *Sanctions and denials.* Procedures governing enforcement-related permit sanctions and denials are found at subpart D of 15 CFR part 904.

(k) *Alteration.* A permit that is altered, erased, or mutilated is invalid.

(l) *Replacement.* A replacement permit may be issued upon request. An application for a replacement permit will not be considered a new application.

(m) *Change in application information.* A permittee must notify the Regional Director within 30 days after any change in the application information required by paragraphs (c)(1) through (c)(3) of this section. A permit is void if any change in the information is not reported within 30 days.

5. Section 638.5 is revised to read as follows:

§ 638.5 Prohibitions.

In addition to the general prohibitions specified in § 620.7 of this chapter, it is unlawful for any person to do any of the following:

(a) Take prohibited coral in the EEZ without a Federal permit; use an allowable chemical to collect fish or other marine organisms in a coral area in the EEZ without a Federal permit or acceptable state permit; or take an allowable octocoral in the EEZ without a Federal permit or an acceptable state permit, as specified in § 639.4(a).

(b) Falsify information specified in § 638.4(c) on an application for a Federal permit.

(c) Fail to comply with a catch, landing, or gear regulation on allowable octocoral of a state of landing, if such state regulation is more restrictive than the regulation in this part or there is no equivalent regulation in this part, as specified in § 638.4(f)(1).

(d) Fail to comply with a permit condition or restriction, as specified in accordance with § 638.4(f)(2).

(e) Fail to display a Federal permit, or an acceptable state permit or license, as specified in § 638.4(i).

(f) Fail to notify the Regional Director after a change in the information provided on an application for a Federal permit, as specified in § 638.4(m).

(g) Falsify or fail to provide information required to be submitted or reported, as required by § 638.7 (a) or (b).

(h) Fail to make prohibited coral or allowable octocoral available for inspection, as required by § 638.7(c).

(i) Fail to return to the sea prohibited coral and allowable octocoral taken as incidental catch, as specified in § 638.21(a).

(j) In those fisheries in which the entire catch is landed, land sorted prohibited coral or allowable octocoral, or sell, trade, or barter prohibited coral or allowable octocoral, as specified in § 638.21(a).

(k) Exceed the bag and possession limit when fishing under a recreational permit to take allowable octocoral, as specified in § 638.21(b).

(l) Use prohibited fishing gear in an HAPC, as specified in § 638.22(a)(2), (b)(2), and (c)(2).

(m) Use a toxic chemical to take fish or other marine organisms, as specified in § 638.23.

(n) Take allowable octocoral after harvest from the EEZ is prohibited, as specified in § 638.25.

6. In § 638.7, the existing text is designated as paragraph (a) and new paragraphs (b) and (c) are added to read as follows:

§ 638.7 Recordkeeping and reporting

* * * * *

(b) A person with a Federal permit to take allowable octocoral in the EEZ, if selected by the Science and Research Director, must submit a report of his harvest to the Science and Research Director on a form available from the Science and Research Director. These forms must be submitted to the Science and Research Director on a quarterly basis within 25 days of the end of each quarter. The following information must be included on the forms:

(1) Federal permit number;

(2) Name of permit holder;

(3) Quarter when fishing occurred;

(4) Number of colonies harvested by month and by species name if known;

(5) Area fished;

(6) Signature of the person submitting the form; and

(7) Other information deemed necessary by the Science and Research Director.

(c) Additional data will be collected by authorized statistical reporting agents, as designees of the Science and Research Director, and by authorized officers. An owner or operator of a fishing vessel and a dealer or processor are required upon request to make prohibited coral or allowable octocoral available for inspection by the Science and Research Director or an authorized officer.

7. Section 638.21 is revised to read as follows:

§ 638.21 Harvest limitations.

(a) Prohibited coral and allowable octocoral taken as incidental catch to other fishing activities by a person who does not have a permit must be returned to the sea in the general area of fishing immediately. In those fisheries, such as scallops and groundfish, where the entire catch is landed, unsorted prohibited coral and unsorted allowable octocoral may be landed but not sold, traded, or bartered.

(b) A person who has a recreational permit to take allowable octocoral may not posses during a single day, regardless of the number of trips or the duration of a trip, allowable octocoral in excess of six colonies.

8. Section 638.23 is revised to read as follows:

§ 638.23 Gear limitations.

A toxic chemical may not be used to take fish or other marine organisms in or on a coral area.

9. Section 638.24 is redesignated as § 638.26, and new §§ 638.24 and 638.25 are added to read as follows:

§ 638.24 Quota.

The quota of allowable octocoral is 50,000 colonies from the EEZ each fishing year.

§ 638.25 Closure.

When the quota specified in § 638.24 is reached, or is projected to be reached, the Secretary will publish a notice to that effect in the Federal Register. After the effective date of such notice, for the remainder of the fishing year, the harvest of allowable octocoral from the EEZ is prohibited.

[FR Doc. 90-25218 Filed 10-22-90; 11:51 am]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 55, No. 207
Thursday, October 25, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Rulemaking; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Rulemaking of the Administrative Conference of the United States. The meeting will be held at 4:30 p.m. on Thursday, November 8, 1990, at the Administrative Conference of the United States, 2120 L Street, NW., suite 500, Washington, DC 20037 (Library, 5th Floor).

The committee will meet to discuss two new projects: (1) A study of the Medicaid rulemaking process, conducted by Eleanor Kinney, Director, Program for Law, Medicine and the Health Care Industry, Indiana University School of Law; and (2) a study of administrative responses to congressional demands for information, by Peter Shane, Professor of Law, University of Iowa.

For further information concerning this meeting, contact Kevin Jessar, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., suite 500, Washington, DC. (Telephone: 202–254–7020.)

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman at least one day is advance. The committee chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request.

Dated: October 22, 1990.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 90–25379 Filed 10–24–90; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

October 19, 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 of supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404–W Admin. Bldg., Washington, DC 20250, (202) 447–2118.

Extension

• Food Safety and Inspection Service, Regulations Governing Voluntary Reimbursable Inspection Service. MP 85, 225; FSIS 9060–8, 9060–13. Recordkeeping, On occasion. Individuals or households; State or local governments; Businesses or other for-profit; Small businesses or organizations; 800 responses; 78 hours; not applicable under 3504(h). Roy Purdie, Jr. (202) 447–5372.

• National Agricultural Statistics Service, Field Crop Production. Weekly; Monthly; Quarterly; Annually. Farms; Businesses or other for-profit; 299,960 responses; 54,620 hours; not applicable under 3504(h). Larry Gambrell (20_) 447–7737.

New Collection

• Cooperative State Research Service, Preconstruction Environmental Report. One time only. Non-profit institutions; 12 responses; 120 hours; not applicable under 3504(h). Evelyn O'Connor-Miller (202) 401–6466.

Reinstatement

• Federal Crop Insurance Corporation, Field Inspection And Claim For Indemnity. FCI–63 and FCI–74. On occasion. Individuals or households; Farms; 40,000 responses; 10,000 hours; not applicable under 3504(h). Garland Westmoreland (202) 447–5251.

Donald E. Hulcher,

Acting Departmental Clearance Officer.

[FR Doc. 90–25191 Filed 10–24–90; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Intent To Prepare an Environmental Impact Statement on Management of the Subsistence Uses of Fish and Wildlife on Public Lands in Alaska

AGENCY: Forest Service, USDA; Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: The Federal Subsistence Board (Board), on behalf of the Bureau of Indian Affairs, Bureau of Land Management, Fish and Wildlife Service, National Park Service and USDA-Forest Service (land managing agencies in Alaska), intends to gather in formation necessary for the preparation of an environmental impact statement on the Federal management of subsistence uses of fish and wildlife on public lands in Alaska. Public meetings will be held throughout Alaska to solicit comments on the Federal subsistence management program and possible effects of the program on the subsistence user and resources in accordance with the provisions of Section 810 of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA).

DATES: Written comments should be received by December 31, 1990. Public meetings to receive comments will be held throughout Alaska during October and November and in Seattle, Washington and Washington, DC. Widespread local announcement of these meetings will be provided as soon as possible. Tentative meeting locations and dates are as follows:

Allakaket	Oct. 29
Anaktuvuk Pass	Oct. 30
Anchorage	Nov. 20
Angoon	Oct. 30
Aniak	Nov. 6
Arctic Village	Nov. 27
Barrow	Nov. 1
Bethel	Nov. 1
Cantwell	Nov. 16
Chenega	Nov. 6
Chignik	Nov. 15
Cold Bay	Nov. 14
Craig	Nov. 14
Delta Junction	Nov. 13
Dillingham	Oct. 30
Eagle	Nov. 19
Egegik	Nov. 13
Emmonak	Nov. 28
Fairbanks	Nov. 14
Fort Yukon	Nov. 26
Galena	Nov. 6
Glennallen	Nov. 15
Haines	Nov. 1
Holy Cross	Nov. 7
Homer	Nov. 27
Hoonah	Nov. 29
Hooper Bay	Nov. 27
Iliamna	Oct. 29
Juneau	Oct. 23
Kaktovik	Oct. 31
Ketchikan	Nov. 13
Kodiak	Nov. 16
Kongiganak	Oct. 31
Kotzebue	Nov. 2
Lime Village	Nov. 5
McGrath	Nov. 19
Mekoryuk	Nov. 26
Minto	Nov. 8
Mountain Village	Nov. 29
Naknek	Nov. 29
Nenana	Nov. 15
Nome	Nov. 1
Palmer	Nov. 8
Petersburg	Oct. 24
Port Graham	Nov. 26
Quinhagak	Oct. 31
Seward	Nov. 8
Shageluk	Nov. 8
Sitka	Oct. 29
Soldotna	Nov. 19
Tanana	Nov. 7
Tatitlek	Nov. 7
Tenakee Springs	Oct. 26
Togiak	Oct. 30
Tok	Nov. 20
Unalakleet	Nov. 5
Valdez	Nov. 5
Yakutat	*Nov. 16*
Seattle, WA	Dec. 6
Washington, DC	Dec. 4

ADDRESSES: Comments should be addressed to the Federal Subsistence Board, U.S. Fish and Wildlife Service, ATTN: Richard Pospahala, 1011 E. Tudor Road, Anchorage, Alaska 99503.

FOR FURTHER INFORMATION CONTACT: Richard Pospahala, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; telephone (907) 267–1461.

SUPPLEMENTARY INFORMATION: Title VIII of ANILCA (16 U.S.C. 3111–3126) requires the Secretaries of Agriculture and Interior to implement a program to ensure preference to rural Alaskans for subsistence uses of fish and wildlife on public lands unless the State of Alaska implements a subsistence program consistent with ANILCA's requirements. The State of Alaska had such a program that the Department of the Interior found to be consistent with ANILCA. In December 1989, however, the Alaska Supreme Court ruled in *McDowell* v. *State of Alaska* that the rural limitation in the State subsistence definition, which is required by ANILCA, violates the Alaska Constitution. The Court stayed the effect of the decision until July 1, 1990.

As a result of the decision, the Departments of Agriculture and Interior were required to take over implementation of title VIII of ANILCA on public lands on July 1, 1990. Temporary regulations were developed to implement the Federal Subsistence Program until final regulations could be prepared. The Federal Subsistence Board, as the managing entity, is now starting the process of collecting public comments relating to a number of issues on subsistence management on public lands in order to prepare an environmental impact statement (EIS). This EIS will evaluate alternative approaches in the Federal Subsistence Management Program. Public lands in Alaska affected by this program include those managed by the Fish and Wildlife Service, National Park Service, Bureau of Land Management, Bureau of Indian Affairs, Forest Service, Air Force, Army and possibly other Federal land managing agencies.

The Fish and Wildlife Service is designated the lead agency for the preparation of the EIS. The National Park Service, Bureau of Land Management, Bureau of Indian Affairs, and Forest Service are participating as cooperating agencies. The environmental review of the program will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 *et seq.*), Council on Environmental Quality Regulations (40 CFR 1500–1508), other appropriate Federal regulations and Department of the Interior procedures for compliance with those regulations.

The Draft Environmental Impact Statement is estimated to be available to the public for review by October, 1991.

Walter O. Stieglitz,

Chairman, Federal Subsistence Board, Regional Director, U.S. Fish and Wildlife Service.

Michael A. Barton,

Regional Forester, USDA—Forest Service.

[FR Doc. 90-25248 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF AGRICULTURE

Forest Service

Metropolitan Water District, Inland Feeder Project, San Bernardino National Forest, San Bernardino and Riverside Counties, CA; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service, in cooperation with the Department of Interior, Bureau of Land Management (BLM) and the Metropolitan Water District of Southern California (Metropolitan), will prepare a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for a proposal to permit the construction of the Inland Feeder Project on Federal and other lands in San Bernardino and Riverside Counties, California. The EIS/EIR will meet the requirements of both the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). For purposes of complying with NEPA, the Forest Service will serve as the lead Federal agency and the BLM will be a cooperating agency for those portions of the proposal on Federal lands. The Metropolitan Water District will be the lead agency under CEQA for all other lands.

The San Bernardino National Forest Land and Resource Management Plan directs that the following three criteria be met before a permit may be issued: (a) The use must be compatible with Forest Service management objectives, (b) the opportunity for the use does not exist on private lands, and (c) impacts to Forest resources can be mitigated. The EIS/EIR will determine if these criteria can be satisfied by the proposed action.

The Inland Feeder is a proposed 42 to 48 mile raw water conduit that will convey water from the enlarged East Branch of the California Aqueduct into Metropolitan's distribution system. The project will originate at the afterbay of the Devil Canyon powerplant and will terminate at Colorado River Aqueduct

at the junction of the Casa Loma Canal, Lakeview Pipeline, and the San Diego Canal. Four alternative routes are being considered. A fifth project alternative originating at Silverwood Lake is also being examined for inclusion in the environmental analysis.

Issues Identified: Preliminary discussions between the Forest Service, BLM, and Metropolitan have identified the following issues: Threatened and endangered species, wildlife, traffic circulation, water quality, ground water, cultural resources, and aesthetics.

The EIS/EIR will evaluate four, and perhaps five, project alternatives and a No Project alternative. Two, or three is the fifth project alternative is included, of the project alternatives are within the San Bernardino National Forest and would involve the boring of tunnels.

SUPPLEMENTARY INFORMATION: Metropolitan is proposing the Inland Feeder Project to increase raw water conveyance capacity for its service area, which covers the southern California coastal plain from Ventura County to the Mexican border. Metropolitan supplies supplemental imported water from the State Water Project and the Colorado River to its member public agencies in Riverside, San Bernardino, San Diego, Orange, Los Angeles, and Ventura counties. Annual water needs within Metropolitan's service area in 1990 are estimated to be 3.7 million acre feet to supply the 15 million people servced.

Studies prepared by the regional planning agencies, the Southern California Association of Governments (SCAG), the San Diego Association of Governments, and the California Department of Finance indicate population in this area will increase from 15 million to 18.3 million by the year 2010. SCAG estimates a regional water supply shortfall of over 1 million acre feet by the year 2010. Metropolitan estimates that additional capacity will be needed by the year 1997.

The draft EIS/EIR is expected to be available for public review by June 1991 and comments will be received for a period of 45 days following the date that the notice of its availability is published in the **Federal Register**. It is important that those interested in the management of the San Bernardino National Forest and adjacent Public Domain lands participate at that time. To be most helpful, comments on the draft EIS/EIR should be as specific as possible and may address the adequacy of the document or the merits of the alternatives discussed (see The Council on Environmental Quality Regulations For Implementing The Procedural Provisions Of The National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal Court decisions have established that reviewers of draft EIS's 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 Nuclear Power Corp. v. NRDC, 435 U.S. 519, 553 (1978)), and that environmental objections that could have been raised at the draft stage may be waived if raised until after completion of the final EIS, (Wisconsin Heritages, Inc. v. Harris, 490 F. Supp. 1338 (E.D. Wisc. 1980)). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service when they can meaningfully consider them and respond to them in the final document. All comments will be considered and analyzed in preparing the final EIS/EIR, which is scheduled to be completed by September 1991. The responsible official will document the decision in a Record of Decision which will be subject to appeal under the provisions of 36 CFR Part 217.

DATES: Comments are requested on this notice concerning the scope of analysis of the draft EIS/EIR. Comments must be received within 30 days of the publication date of this notice.

PUBLIC MEETINGS: The Forest Service and Metropolitan will conduct the following meetings to provide information on the project to the public: Riverside City Hall, Nov. 5, 1990, 7 p.m.; San Bernardino County Museum, Nov. 8, 1990, 8 p.m.; Rialto City Hall, Nov. 14, 1990, 7 p.m.; and Moreno Valley City Hall, Nov. 15, 1990, 7 p.m.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis for the Inland Feeder Project to Charles H. Irby, Forest Supervisor, San Bernardino National Forest, 1824 S. Commercenter Circle, San Bernardino, CA 92408–3430.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed Metropolitan Water District Inland Feeder Project and preparation of the EIS/EIR to Ernie Dierking, Lands Officer at the above address or call (714) 383–5692.

Dated: October 17, 1990.

Charles H. Irby,

Forest Supervisor.

[FR Doc. 90–95247 Filed 10–24–90; 8:45 am]

BILLING CODE 3410–11–M

Oil and Gas Leasing Suitability Analysis for the Grand Mesa National Forest et al.

In the matter Grand Mesa, Uncompahgre, and Gunnison National Forests located in Delta, Garfield, Gunnison, Hinsdale, Mesa, Montrose, Ouray, Saguache, San Juan, and San Miguel Counties, CO.

AGENCY: Forest Service, USDA; Bureau of Land Management, USDI.

ACTION: Notice of Intent to prepare an environmental impact statement.

SUMMARY: The Forest Service and Bureau of Land Management will prepare an environmental impact statement to analyze and disclose the expected environmental consequences, and possible cumulative effects of issuing or not issuing oil and gas leases on the Grand Mesa, Uncompahgre, & Gunnison National Forests. The Forest Service will serve as lead agency, and the Bureau of Land Management will serve as a cooperating agency providing special expertise.

DATES: Comments concerning the scope of the analysis should be received in writing by December 10, 1990.

ADDRESSES: Send written comments to Richard E. Greffenius, Forest Supervisor, 2250 Highway 50, Delta, Colorado 81416.

FOR FURTHER INFORMATION CONTACT: Larry Meshew, Forest Hydrologist, 303–874–7691.

SUPPLEMENTARY INFORMATION: The environmental analysis will identify areas: (1) Open to oil & gas development subject to the terms and conditions of the standard lease form; (2) Open to development but subject to constraints requiring lease stipulations such as those prohibiting or controlling surface occupancy; (3) Closed to leasing through the exercise of management direction, laws, or regulations on National Forest system lands within the Grand Mesa, Uncompahgre, & Gunnison National Forests. The analysis will include split estate lands within the administrative boundaries of the Grand Mesa, Uncompahgre, & Gunnison National Forests where the minerals are federally owned and managed, but the surface is not.

In preparing the environmental impact statement, the Forest Service will identify and consider a full range of alternatives, including a no action alternative, to help analyze the significant issues identified during the scoping process.

Preliminary issues include: (1) Will leasing in unroaded areas harm the character of unroaded areas; (2) Will access and travel management problems

occur as a result of leasing or not leasing certain lands; (3) Will leasing or not leasing certain lands affect economic stability; (4) What are the environmental effects of oil and gas leasing on wildlife, fish, vegetation, soils, water quality, air quality, recreation, wetlands, and threatened & endangered plant and animal species; (5) Should leasing occur in muncipal watersheds, wild & scenic river-ways, scenic-byways, research natural areas, or other special interest areas.

Public participation will be an important aspect of the analysis. The Forest Service is seeking comments and suggestions from individuals and groups or other Federal, State and local agencies who may be interested in the proposed action. To facilitate input, the Forest Supervisor has prepared a preliminary scoping document and has scheduled an open house. The open house is scheduled to be held on November 14, 1990, 7 P.M. at the bureau of Land Management District Office in Montrose, CO. The preliminary scoping document is available upon request at the Forest Supervisors Office in Delta. Information gathered during the scoping process will be used to identify significant analysis issues.

A draft environmental impact statement is expected to be filed with the Environmental Protection Agency and to be available for public review by October 1991. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the Federal Register.

It is very important for interested reviewers to participate during the 45 day draft environmental impact statement comment period. To be the most helpful, comments on the draft environmental impact statement should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed.

In addition, Federal court decisions have established that 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 reviewers' position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *City of Angoon* v. *Hodel*, (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason is to ensure substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns, comments on the draft environmental impact statement should be as specific as possible. Comments should 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 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.)

The final environmental impact statement is scheduled to be completed by September 1992. The responsible official for the Forest Service will consider comments, responses, and environmental consequences discussed in the environmental impact statement as well as applicable laws, regulations, and policies in making a decision regarding the proposal. The decision will be documented in a Record of Decision, and is subject to review under 36 CFR 217.6. The Bureau of Land Management is a cooperating agency and is providing special expertise. The responsible official for the Forest Service is Richard E. Greffenius, Forest Supervisor, Grand Mesa, Uncompahgre, & Gunnison National Forests. The responsible officials for the Bureau of Land Management are Allan L. Kesterke, Montrose District Manager, Colorado and Bruce Conrad, Grand Junction District Manager, Colorado.

Dated: October 19, 1990.

Larry M. Hill,

Acting Forest Supervisor.

[FR Doc. 90-25212 Filed 10-24-90; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

Saluda River Electric Cooperative, Inc. Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Finding of no significant impact relating to the construction of an operations center in Laurens County, South Carolina.

SUMMARY: Notice is hereby given that the Rural Electrification Administration, pursuant to the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), the Council on Environmental Policies and Procedures (7 CFR part 1794), has made a Finding of No Significant Impact with respect to the construction of an operations center in Laurens County, South Carolina. Saluda River Electric Cooperative Inc., has requested the Rural Electrification Administration's approval to construct the project.

FOR FURTHER INFORMATION CONTACT: Alex M. Cockey, Jr., Director, Southeast Area—Electric, room 0270, South Agriculture Building, Rural Electrification Administration, Washington, DC 20250, telephone (202) 382-8436.

SUPPLEMENTARY INFORMATION: The proposed operations center will consist of a 9,700 square foot operations building/workshop, a 19,300 square foot warehouse, a 13,900 square foot garage and maintenance building with refueling area incorporating one diesel fuel pump and one gasoline fuel pump, diesel and gasoline above ground fuel tanks each having a capacity of 3,000 gallons, a self supporting lattice type radio tower with a maximum height of 400 feet, a storm water retention pond with a maximum surface area of three acres, a pole and equipment storage area, and employee and visitor parking to accommodate approximately 60 cars and 20 trucks.

Alternatives considered to constructing the operations center as proposed were no action and leasing building space in or near the City of Laurens. Various site locations for the operations center were also considered. The Rural Electrification Administration's preferred alternative is for Saluda River Electric Cooperative, Inc., to construct the operations center at their 29 acre site in Laurens County.

The Rural Electrification Administration, in accordance with its environmental policies and procedures, required that Saluda River Electric Cooperative, Inc., submit a Borrower's Environmental Report (BER) reflecting the potential impacts of the proposed operations center. The Rural Electrification Administration has reviewed the BER and believes it represents a fair and accurate representation of the project and its potential impacts.

Saluda River Electric Cooperative, Inc., published a legal notice and advertisement in the Laurens County Advertiser which has a general circulation in Laurens County, South Carolina. The notice and advertisement appeared in the September 14, 1990 issue. The notice described the project,

announced the availability of the BER, gave information on how the BER could be obtained for review and gave addresses where comments could be sent. The advertisement appeared in the same issue of the newspaper and briefly described the project and referred the reader to the legal notice. The public was given at least 30 days to respond to the notice. No responses to the notice were received by Saluda River Electric Cooperative, Inc., or the Rural Electrification Administration.

As a result of its independent evaluation of the environmental issues and concurrence with the BER's scope and content, the Rural Electrification Administration adopted the BER as its Environmental Assessment of the project.

The Rural Electrification Administration has concluded that the proposed operations center will have no significant impact on the health and welfare of people living or working in the project area, water quality or air quality. The project is not likely to adversely affect federally listed threatened and endangered species. There are no wetlands, 100-year floodplains, properties listed or eligible for listing on the National Register of Historic Places, National Forests, National Wilderness Areas, National Landmarks, or streams and rivers on, or under review for the Wild and Scenic River System in the project area.

The proposed operations center site is composed of Cecil sandy loam soil which is recognized as prime and statewide important farmland soil. No practicable alternatives to locating on prime and statewide important farmland soils were identified due to the high concentration of these types of soils in the immediate area. The site is not, or has not recently been, in agricultural production.

No potential significant impacts resulting from the construction and use of the proposed operations center have been identifieid. Therefore, the Rural Electrification Administration has determined that its action related to this project will have no significant impact on the quality of the human environment and has subsequently reached a Finding of No Significant Impact.

The Rural Electrification Administration has determined that the Finding of No Significant Impact fulfills its obligations under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality Regulations (40 CFR parts 1500–1508) and the Rural Electrification Administration Policies and Procedures (7 CFR part 1794) for its action related to the proposed operations center.

Copies of the Environmental Assessment and Finding of No Significant Impact can be obtained from REA at the address provided herein or at the office of Saluda River Electric Cooperative, Inc., P.O. Box 929, Laurens, South Carolina 29360.

Dated: October 19, 1990.

Approved:

John H. Arnesen,

Assistant Administrator—Electric Rural Electrification Administration, United States of America.

[FR Doc. 90–25229 Filed 10–24–90; 8:45 am]

BILLING CODE 3410–15–M

DEPARTMENT OF COMMERCE

Office of the Secretary

Senior Executive Service in Performance Review Board; Membership

Below is a listing of individuals who are eligible to serve on the Performance Review Board in accordance with the Office of the Secretary Senior Executive Service (SES) Performance Appraisal System:

Hugh L. Brennan
Guy W. Chamberlin, Jr.
David L. Edgell
David Farber
Mary Ann T. Fish
Jose A. Lira
James M. LeMunyon
Michael A. Levitt
Otto J. Wolff

Edward A. McCaw,

Executive Secretary, Office of the Secretary, Performance Review Board.

[FR Doc. 90–25176 Filed 10–24–90; 8:45 am]

BILLING CODE 3510–BS–M

Agency Form Under Review by the Office of Management and Budget (OMB)

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

Agency: Bureau of the Census.
Title: Current Population Survey—Asian or Pacific Islander Supplement (March 1991).
Form Number(s): CPS–1, CPS–260.
Agency Approval Number: None.
Type of Request: New collection.
Burden: 250 hours.
Number of Respondents: 60,000.
Avg Hours per Response: 15 seconds.
Needs and Uses: The Bureau of the Census will use this supplement to the Current Population Survey (CPS) to provide the only data during the 1990–2000 intercensal years on the size and socioeconomic characteristics of specific Asian and Pacific Islander subgroups. The Department of Health and Human Services will use these data to evaluate refugee programs and social and economic progress of immigrant groups. The supplement will provide timely and accurate data to policymakers who plan and implement relevant programs and policies.
Affected Public: Individuals or households.
Frequency: One time only.
Respondent's Obligation: Voluntary.
OMB Desk Officer: Marshall Mills, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Clearance Officer, (202) 377–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Marshall Mills, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 19, 1990.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 90–25211 Filed 10–24–90; 8:45 am]

BILLING CODE 3510–07–M

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

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

Agency: National Oceanic and Atmospheric Administration.
Title: Sea Grant Budget.
Form Number: NOAA Form 90–4; OMB–0648–0034.
Type of Request: Request for extension of the expiration date of a currently approved collection without any change in the substance or method of the collection.
Burden: 40 respondents; 200 reporting hours; average hours per response—.25 hours.
Needs and Uses: The information is used by both grantee and grantor to

determine the cost of each project in a multi-project proposal and to determine the allowability of matching costs offered. Also used in negotiating costs and administrative control of expenditures by both parties.
Affected Public: State or local governments, non-profit institutions.
Frequency: Annually.
Respondent's Obligation: Required to obtain or retain a benefit.
OMB Desk Officer: Ronald Minsk 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Ronald Minsk, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 18, 1990.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 90–25165 Filed 10–24–90; 8:45 am]

BILLING CODE 3510–CW–M

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

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

AGENCY: National Oceanic and Atmospheric Administration.
Title: Sea Grant Control.
Form Number: NOAA Form 90–1; OMB–0648–0008.
Type of Request: Request for extension of the expiration date of a currently approved collection without any change in the substance or method of the collection.
Burden: 40 respondents; 20 reporting hours; average hours per response—.5 hours.
Needs and Uses: The information gathered identifies the participating organizations and personnel in a proposed Sea Grant project. It is used in the review of proposals.
Affected Public: State or local governments, non-profit institutions.
Frequency: Annually.
Respondent's Obligation: Required to obtain or retain a benefit.
OMB Desk Officer: Ronald Minsk 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Ronald Minsk, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 18, 1990.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 90–25166 Filed 10–24–90; 8:45 am]

BILLING CODE 3510–CW–M

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

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

Agency: Bureau of Export Administration.
Title: Quarterly Report on Export of Parts to Service Equipment Shipped Against a Validated Export License.
Form Number: EAR §776.4(d)(e); OMB Control No. 0694–0003.
Type of Request: Extension of the expiration date of a currently approved collection.
Burden: 12 respondents reporting quarterly; 25 reporting/recordkeeping hours. Average time per respondent is ½ hour.
Needs and Uses: This reporting requirement allows U.S. exporters to export parts to service U.S. equipment in Country Groups Q, W, and Y provided that the equipment was previously exported from the U.S. under a validated license.
Affected Public: Businesses or other for-profit. institutions; small businesses or organizations.
Frequency: Quarterly.
Respondent's Obligation: Required to obtain or retain a benefit.
OMB Desk Officer: Marshall Mills, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Marshall Mills, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 18, 1990.

Edward Michals,

Department Clearance Officer, Office of Management and Organization.

[FR Doc. 90–25167 Filed 10–24–90; 8:45 am]

BILLING CODE 3510–CW–M

Foreign-Trade Zones Board

[Docket 39–90]

Foreign-Trade Zone 141—Monroe County, NY; Application for Subzone, General Motors Corp. Auto Parts Plant, Rochester, NY.

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the County of Monroe, New York, grantee of FTZ 141, requesting special-purpose subzone status for the auto parts manufacturing plant of General Motors Corporation (GM), Delco Products Division, located in Rochester, New York. 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 October 2, 1990.

The GM plant (36 acres) is located at 1555 Lyell Avenue in Rochester. The facility employs 3,500 persons and is used to produce windshield wiper systems, car seat actuators, door lock actuators, windowlift actuators, power antennae, heater and blower motors, compressors and engine cooling systems. Foreign subcomponents and materials account for up to 70 percent (average—15%) of material value of the auto parts made at the plant. They include housings, motor assemblies, magnets, pumps, antennae and circuit boards. Foreign sourced bearings would enter the plant in duty-paid domestic status.

Zone procedures would exempt GM from Customs duties on the foreign components used in the manufacture of products that are exported. On products shipped to GM's domestic auto assembly plants with subzone status, the company would be able to choose the rate that applies to finished autos (2.5%), whereas the duty rates on the subcomponents and material used at the plant range from 3.0 to 6.0 percent. Normal duty rates would apply to components used for products that are sold in the U.S. aftermarket. The application indicates that the savings

will help improve the company's international competitiveness.

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: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Edward A. Goggin, Assistant Regional Commissioner, U.S. Customs Service, Northeast Region, 10 Causeway Street, Boston, Massachusetts 02222–1056; and Colonel Hugh F. Boyd III, District Engineer, U.S. Army Engineer District, Buffalo, 1776 Niagara Street, Buffalo, New York 14207–3199.

Comments concerning the proposed subzone are invited in writing from interested parties. They shall be addressed to the Board's Executive Secretary at the address below and postmarked on or before December 4, 1990.

A copy of the application is available for public inspection at each of the following locations.

U.S. Department of Commerce, Branch Office, 121 East Avenue, Rochester, New York 14604.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 4213, 14th and Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: October 17, 1990.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 90–25168 Filed 10–24–90; 8:45 am]

BILLING CODE 3510–DS–M

International Trade Administration

[A–351–503]

Certain Iron Construction Castings From Brazil; 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: On August 21, 1990, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on certain iron construction castings from Brazil. The review covers one manufacturer of this merchandise and the period May 1, 1988 through April 30, 1989. COSIGUA failed to provide a complete response to our questionnaire and indicated that they would not cooperate further to complete the response. As a result, we have determined to use the best information otherwise available for cash deposit and appraisement purposes.

EFFECTIVE DATE: October 25, 1990.

FOR FURTHER INFORMATION CONTACT: Christopher Beach or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On August 21, 1990, the Department of Commerce (the Department) published in the **Federal Register** (55 FR 34047) the preliminary results of its administrative review of the antidumping duty order on certain iron construction castings from Brazil (51 FR 17220; May 9, 1986). We have now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

Imports covered by the review are shipments of certain heavy and light iron construction castings. Heavy castings are limited to manhole covers, rings and frames, catch basins, grates and frames, cleanout covers and frames used for drainage or access purposes for public utility, water and sanitary systems. Light castings are limited to valve, service, and meter boxes which are placed below ground to encase water, gas, or other valves, or water or gas meters. These articles must be of cast iron, not alloyed, and not malleable.

During the review period, heavy castings were classifiable under *Tariff Schedules of the United States Annotated* (TSUSA) item number 657.0950, and light castings were classifiable under TSUSA item number 657.0990.

Heavy castings are currently classifiable under *Harmonized Tariff Schedule* (HTS) item numbers 7325.10.00.10 and 7325.10.00.50, and light castings are currently classifiable under HTS item numbers 8306.29.00.00 and 8310.00.00.00. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers one manufacturer/exporter, COSIGUA, and the period May 1, 1988 through April 30, 1989.

Analysis of Comments Received

We gave interested parties an opportunity to comment on our preliminary results. We received no comments.

Final Results of Review

As a result of our review, we determine the dumping margin to be:

Manufacturer	Period	Margin (percent)
COSIGUA	05/01/88–04/30/89	58.74

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margin will be required for COSIGUA. For any shipments of this merchandise manufactured or exported by the remaining known manufacturers and exporters not covered by this review, the cash deposit will continue to be at the latest rate applicable to each of these firms. Since we do not rely on the best information available for establishing the new exporter rate, for any future entries of this merchandise from a new exporter, not covered in this or prior administrative reviews, whose first shipments of Brazilian iron construction castings occurred after April 30, 1989, and who is unrelated to any reviewed firm, the cash deposit will continue at the rate established in the final results of the last administrative review. These deposit requirements are effective for all shipments of certain Brazilian iron construction castings entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the 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 19 CFR 353.22.

Dated: October 18, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90–25172 Filed 10–24–90; 8:45 am]

BILLING CODE 3510–DS–M

[C–351–005]

Frozen Concentrated Orange Juice From Brazil; Determination Not To Terminate Suspended Investigation

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of determination not to terminate suspended investigation.

SUMMARY: The Department of Commerce is notifying the public of its determination not to terminate the suspended countervailing duty investigation on frozen concentrated orange juice from Brazil.

EFFECTIVE DATE: October 25, 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 March 1, 1990, the Department of Commerce ("the Department") published in the **Federal Register** (55 FR 7357) notice of its intent to terminate the suspended countervailing duty investigation on frozen concentrated orange juice from Brazil (March 2, 1983, 48 FR 8839). The Department may terminate a suspended investigation if the Secretary concludes that the agreement is no longer of interest to interested parties. The Department has not received a request to conduct an administrative review of the agreement suspending the countervailing duty investigation on frozen concentrated orange juice from Brazil for more than four consecutive annual anniversary months.

On March 28, 1990, the petitioner, Florida Citrus Mutual, and certain producers of frozen concentrated orange juice objected to the Department's intent to terminate this suspended investigation. Therefore, we no longer intend to terminate the suspended investigation.

This notice is in accordance with section 355.25(d)(4) of the Commerce Department's regulations.

Dated: October 18, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90–25171 Filed 10–24–90; 8:45 am]

BILLING CODE 3510–DS–M

Scope Rulings

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of scope rulings.

SUMMARY: The International Trade Administration (ITA) hereby publishes a list of scope rulings completed between July 1, 1990 and September 30, 1990. In conjunction with this list the ITA is also publishing a list of pending scope inquiries. The ITA intends to publish future lists within thirty days of the end of each quarter.

EFFECTIVE DATE: October 25, 1990.

FOR FURTHER INFORMATION CONTACT: Melissa G. Skinner, Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377–4851.

SUPPLEMENTARY INFORMATION:

Background

Sections 353.29(d)(8) and 355.29(d)(8) of the Department's regulations (19 CFR 353.29(d)(8) and 355.29(d)(8)) provide that on a quarterly basis the Secretary will publish in the **Federal Register** a list of scope rulings completed within the last three months. The lists are to include the case name, reference number, and brief description of the ruling.

This notice lists scope rulings completed between July 1, 1990 and September 30, 1990, and pending scope clarification requests. The ITA intends to publish in January 1991, a notice of scope rulings completed between October 1, 1990 and December 31, 1990.

The following lists provide the country, case reference number, requester(s), and a brief description of either the ruling or product subject to the request.

Scope Rulings Completed Between July 1, 1990 and September 30, 1990

Country: Canada

A–122–506: OCTG—modified scope by abolishing the end use certification procedure and adopting new procedures—9/4/90

Country: United Kingdom

A–412–801: Antifriction Bearings; Durbal GmbH, Nippon Thompson Co., Ltd., and Minebea Co., Ltd.—rod ends are within the scope of the order—8/6/90

Country: France

A–427–801: Antifriction Bearings:

Valeo, Societe Anonyme—clutch release bearings are within the scope of the order—8/6/90

Bell Helicopter Textron Inc.—ball bearings used in the manufacture of helicopters are within the scope of the order—9/14/90

Country: Federal Republic of Germany

A–428–801: Antifriction Bearings; Durbal GmbH, Nippon Thompson Co., Ltd., and Minebea Co., Ltd.—rod ends are within the scope of the order—8/6/90

Country: People's Republic of China

A–570–506: Porcelain-on-Steel Cookware; Texsport—camping sets, with the exception of the cups and plates included in those sets, are within the scope of the order—8/8/90

A–570–003: Cotton Shop Towels; Able Textile—towels assembled in Canada from cotton grey fabric from the People's Republic of China are outside the scope of the order—8/21/90

Country: Republic of Korea

A–580–501: Photo Albums and Filler Pages; WorldSource—commemorative binders are within the scope of the order—8/30/90

A–580–803: Certain Small Business Telephone Systems and Subassemblies Thereof:

DBA—Smartalk 208 and 308 systems are within the scope of the order—7/3/90

Executone—System 432 and subassemblies exclusive to it, as well as subassemblies of the Isoetec line (P/N 15200, P/N 21660, P/N 15640, P/N 15700, P/N 15600, P/N 15620, P/N 15590, P/N 15610, P/N 15680, P/N 15650, P/N 15100, P/N 15410, P/N 15660, P/N 15340, P/N 15870, P/N 09010, P/N 82300, P/N 82100, P/N 82200, P/N 82500, P/N 82400, P/N 83500/80500, P/N 82030, P/N 83700/80700, P/N 82020, P/N 15780, P/N 15790, P/N 15770, P/N 09004, and P/N 15510) are outside the scope of the order—8/7/90

Country: Taiwan

A–583–508: Porcelain-on-Steel Cookware; RSVP—BBQ grill baskets are outside the scope of the order—8/23/90

Country: Japan

A–588–087: Portable Electric Typewriters; Matsushita—Office typewriter models KX–E400, KX–E500B ("Jetwriter"), KX–E500 [E]*, KX–E501 [E]* ("Jetwriter"), KX–E506 [E]* (Jetwriter IIe"), KX–E508 [E]* (*—[E] is updated version) are outside the scope of the order—7/6/90

A–588–405: Cellular Mobile Telephones and Subassemblies:

Matsushita—Models EB–3510 and 3511 are outside the scope of the order—8/6/90

NovAtel—Model PTR–825 is outside the scope of the order—8/6/90

Mitsubishi—Models MT–796FOR6A and 792FOR6A are outside the scope of the order—8/6/90

Sanyo—Model CMP–310 is outside the scope of the order—8/6/90

NEC—message recording device (AVA) is outside the scope of the order—7/14/90

A–588–609: Color Picture Tubes:

Tektronix—Sony produced cathode ray tube SD–97FS is outside the scope of the order—8/21/90

Toshiba—models A36JAR90X and A36JAR50X are within the scope of the order—9/7/90

A–588–802: 3.5" Microdisks and Media Thereof; Toshiba—barium ferrite coated microdisks are within the scope of the order—8/29/90

A–588–804: Antifriction Bearings

Durbal GmbH, Nippon Thompson Co., Ltd., and Minebea Co., Ltd.—rod ends are within the scope of the order—8/6/90

Imprimis Technology Inc.—ball bearings used in the production of disk drives are within the scope of the order—9/14/90

A–588–809: Certain Small Business Telephone Systems and Subassemblies Thereof:

NEC—NEAX 2400 system and subassemblies are outside the scope of the order—7/17/90

Fujitsu—Starlog system is outside the scope of the order—7/27/90

Toshiba—Perception II and Perception Ex systerms are outside the scope of the order and subassemblies (telephone sets—EKT 6000–N, EKT 6000–NM, EKT 6015–H, EKT 6015–S, EKT 6025H, EKT 6025–SD, EKT 6025–D, EKT 6520–SD, EKT 6510–S, EKT 6510–H, EKT 6520–H, HDSS 6060, AND HDSS6560) are within the scope of the order—7/27/90

Pending Scope Inquiries As of September 30, 1990

Country: Federal Republic of Germany

A–428–801: Antifriction Bearings:

Textilmaschinen-Komponenten GmbH and SKF Textile Products, Inc.—textile machinery component (rotor assembly number TE 226–0036225)

Sachs Automotive Products Company—clutch releasers

Country: Korea

A–580–008: Color Television Receivers:

Orion Electric Co.—TV/Radio model 759C/Chassis: CTV–5x

Goldstar—TV/Radio model RCV–0615

Goldstar—TV/VCR model KMV–9002

Commodore Business Machines—computer monitor model 1084(D)

A–580–501: Photo Albums and Filler Pages:

U.S. Customs inquiry—unfinished filler pages

Bowon Trading Co.—photo frame/albums (models 101257, 201257, 200957, 214357, 279757, 301457, 401357, 200857, 201057, and 318357)

A–580–605: Color Picture Tubes; Penn-Ray Sutra Corp.,—video game displays

Country: Japan

A–588–007: Certain High Capacity Pagers; Motorola—components and subassemblies

A–588–015: Television Receiving Sets, Monochrome and Color:

NEC—Subassemblies: W5A–1 (HE), W4A–1 (HE), W3A–1 (HE), W5A–1, and W4A–1

Sharp—LCD TV/Radio/Cassette model JC–AV1

Teknika Electronics Corp.—P.C.B. subassemblies

Sharp—LCD TV/VCR model VC–V542U

Casio Computer Co., Ltd., Casio, Inc., Citizen Watch Co., Ltd. Hitachi, Ltd., Hitachi Sales Corporation of America, Hitachi Sales Corporation of Hawaii, Inc., Matsushita Electric Industrial Co., Ltd., Matsushita Electric Corporation of America, NEC Corporation, NEC Home Electronics (U.S.A.), Inc., Seiko Epson Corporation, Toshiba Corporation, and Toshiba America, Inc.—certain hand-held liquid crystal display televisions (Casio Computer Co., Ltd. models TV–400T, TV–500, TV–1400, TV–3100, TV–8500; Citizen Watch Co., Ltd. models 06TA, 08TA, TB20, TA80, TC50, TC53, DD–T126, DD–P226, TC52; Matsushita Electric Industrial Co., Inc. models CT–301E/302B, CT–311E/312B; and Seiko Epson Corporation models LVD–602, LVD–702, LVD–802) and all other LCD TVs under 6" in screen size imported into the United States

A–588–041: Synthetic Methionine; Mitsui—lactet

A–588–087: Portable Electric Typewriters:

Smith Corona—"later developed" typewriters — preliminary issued 8/7/90

Tokyo Juki—"office" typewriter models: Juki Seirra 4500, Sierra 3300, Sierra 3400, Sierra 3400C, Sierra 3500, Sierra 3500XL, Sierra Officewriter, Remington Rand 770, Remington Rand 775, Remington Rand 880, Avanti 1400, and Avanti 1500

Swintec/Nakajima—"office" typewriter models: 8000, 8000SP, 8011, 8011SP, 8012, 8014S, 8014KSR, 8016, 8017, 1145CM, 1146CM, 1146CMA, 1146CMP, 1146CMSp, 1186CM, and 1186CMP

Silver Reed/Silver Seiko—"office" typewriter models: EX–200, EX–300, EX–30 (85–EP), EX–32 (87–EP), EX–34 (89–EP), EX–36 (89–SP), EX–42, EX–43, EX–44, EZ–30, and EZ–50

Matsushita—"penwriter" typewriter models: X–Y Writer, RK–P200C, RK–P240, RK–P300, RK–P400, RK–P400C, and RK–P440

A–588–702: Stainless Steel Butt Weld Pipefittings:

Benkan Corporation—super clean pipe fittings—preliminary issued 6/25/90

Imex, Inc.—sanitary pipe fittings—preliminary issued 6/25/90

A–588–806: Electrolytic Manganese Dioxide; Sumitomo—High-grade chemical manganese dioxide (CMD–U)

A–588–810: Mechanical Transfer Presses; Aida Engineering—spare and replacement parts

Interested parties are invited to comment on the accuracy of the list of pending scope clarification requests. Any comments should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230.

Dated: October 18, 1990.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 90–25173 Filed 10–24–90; 8:45 am]

BILLING CODE 3510–DS–M

Short-Supply Request for Comments: Certain Alloy Steel Plate

AGENCY: Import Administration/International Trade Administration, Commerce.

ACTION: Notice of short-supply review and request for comments; certain alloy steel plate.

SUMMARY: The Secretary of Commerce ("Secretary") hereby announces a review and request for comments on a short-supply request for 200 metric tons of certain alloy steel plate for the remainder of 1990 under paragraph 8 of U.S.-Japan steel arrangement.

SHORT-SUPPLY REVIEW NUMBER: 26.

SUPPLEMENTARY INFORMATION: Pursuant to section 4(b)(3)(B) of the Steel Trade Liberalization Program Implementation Act, Public Law No. 101–221, 103 Stat. 1886 (1989) ("the Act"), and section 104(b) of the Department of Commerce's Short-Supply Procedures (19 CFR 357.104(b)) ("Commerce's Short-Supply Procedures"), the Secretary hereby announces that a short-supply request is under review with respect to certain alloy steel plate. On October 12, 1990, the Secretary received an adequate petition from U.S. Metalsource, requesting a short-supply allowance for 200 metric tons of this product during the remainder of 1990 under Paragraph 8 of the Arrangement Between Japan and the Government of the United States of America Concerning Trade in Certain Steel Products. U.S. Metalsource has requested short supply because its

Japanese supplier has no regular export licenses available and it believes the product is not produced in the United States.

The requested material meets the following specifications:

Chemical Composition, Typical

C	Mn	S	Si	Cu	Ni	Al
0.15	1.50	0.10	0.30	1.00	3.00	1.00

Manufacturing Practice

NAK 55 is initially air melted to restrictive clean steel standards and then Vacuum Arc Remelted to obtain the level of internal soundness and cleanliness necessary. The ingots are than hot rolled or forged to the billet, plate, or bar sizes.

Thermal Treatment

NAK 55 is solution treated and age hardened to obtain the desired mechanical properties and hardness.

Mechanical Properties, typical

Tensile Strength..... —183 ksi
Yield Strength..... —147 ksi
Reduction of Area..... —38%
Elongation in 2 inches..... —15%
Hardness..... —40 HRC

Size Ranges

Thickness: 0.750 inch to 4.000 inches
Widths: 15 inches to 40 inches.

Polishability

Nak 55 can be readily polished to a uniform mirror finish.

Weldability

Using prescribed welding procedure and welding rods, NAK 55 can be readily weld repaired. The welded component can then be re-aged to obtain the same properties and characteristics in the weld region as in the parent metal with no distortion.

Section 4(b)(4)(B)(ii) of the Act and § 357.106(b)(2) of Commerce's Short-Supply Procedures require the Secretary to make a determination with respect to a short-supply petition not later than the 30th day after the petition is filed, unless the Secretary finds that one of the following conditions exist: (1) The raw steelmaking capacity utilization in the United States equals or exceeds 90 percent; (2) the importation of additional quantities of the requested steel product was authorized by the Secretary during each of the two immediately preceding years; or (3) the requested steel product is not produced in the United States. The Secretary finds that none of these conditions exist with respect to the requested product, and therefore, the Secretary will determine whether this product is in short supply not later than November 9, 1990.

Comments: Interested parties wishing to comment upon this review must send written comments not later than November 1, 1990. to the Secretary of Commerce, Attention: Import Administration, room 7866, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230. Interested parties may file replies to any comments submitted. All replies must be filed not later than 5 days after (November 1, 1990). All documents submitted to the Secretary shall be accompanied by four copies. Interested parties shall certify that the factual information contained in any submission they make is accurate and complete to the best of their knowledge.

Any person who submits information in connection with a short-supply review may designate that information, or any part thereof, as proprietary, thereby requesting that the Secretary treat that information as proprietary. Information that the Secretary designates as proprietary will not be disclosed to any person (other than officers or employees of the United States Government who are directly concerned with the short-supply determination) without the consent of the submitter unless disclosure is ordered by a court of competent jurisdiction. Each submission of proprietary information shall be accompanied by a full public summary or approximated presentation of all proprietary information which will be placed in the public record. All comments concerning this review must reference the above-noted short-supply review number.

FOR FURTHER INFORMATION CONTACT: Marissa A. Rauch or Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, room 7866, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230, (202) 377–1382 or (202) 377–0159.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90–25170 Filed 10–24–90; 8:45 am]

BILLING CODE 3510–DS–M

Short-Supply Determination: Certain Continuous Cast Steel Slabs

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice of short-supply determination on certain continuous cast steel slabs.

SHORT-SUPPLY REVIEW NUMBER: 24.

SUMMARY: The Secretary of Commerce ("Secretary") hereby grants a request for a short-supply allowance of 195,000 net tons of certain continuous cast steel slabs for October 1990 through June 1991 under Article 8 of the U.S.–E.C. and U.S.–Brazil steel arrangements, and Paragraph 8 of the U.S.-Japan steel arrangement.

EFFECTIVE DATE: October 18, 1990.

FOR FURTHER INFORMATION CONTACT: Kathy McNamara or Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230 (202) 377–1390 or (202) 377–0159.

SUPPLEMENTARY INFORMATION: On September 18, 1990, the Secretary received an adequate short-supply petition from Rouge Steel Company ("Rouge Steel") requesting a short-supply allowance for 215,000 net tons of certain continuous cast steel slabs for the fourth quarter of 1990 and the first and second quarters of 1991 under Article 8 of the Arrangement Between the European Coal and Steel Community and the European Economic Community, and the Government of the United States of America Concerning Trade in Certain Steel Products, Article 8 of the Arrangement Between the Government of Brazil and the Government of the United States Concerning Trade in Certain Steel Products, and Paragraph 8 of the Arrangement Between the Government of Japan and the Government of the United States Concerning Trade in Certain Steel Products. Rouge Steel's petition alleges that due to a planned reline of one of its blast furnaces in the second quarter of 1991, as well as the domestic industry's inability to supply slabs meeting Rouge's specifications, short supply will exist during the period October 1990 through June 1991 for the noted continuous cast slabs. Rouge Steel further alleges that, although the blast furnace outage will not occur until the second quarter of 1991, it must import some replacement material prior to the outage so that the material is available when the outage occurs.

The Secretary conducted this short-supply review pursuant to section 4(b)(4)(A) of the Steel Trade Liberalization Program Implementation Act, Public Law No. 101–221, 103 Stat. 1886 (1989) ("the Act"), and Section

357.102 of the Department of Commerce's Short-Supply Procedures, 19 CFR 357.102 ("Commerce's Short-Supply Procedures").

The requested material meets the following specifications:

1. Continuous cast slabs—Class I, Class II, & Class III—Critical exposed material
2. Gauge—7.0 inches to 8.25 inches
3. Length—383 inches
4. Width—38 inches to 63 inches
5. Type—Class I: SAE C–1006 AK, Class II: SAE C–1010 AK, Class III: SAE 940 XF–950 XF

Tolerances:

1. Width: Plus or minus 0.5 inch
2. Thickness: Plus 0.25 inch or minus 0.5 inch
3. Length: Plus or minus 2.0 inch.

Action

On September 18, 1990, the Secretary established an official record on this short-supply request (Case Number 24) in the Central Records Unit, room B–099, Import Administration, U.S. Department of Commerce at the above address. On September 26, 1990, the Secretary published a notice in the **Federal Register** announcing a review of this request and soliciting comments from interested parties. Comments were required to be received no later than October 3, 1990, and interested parties were invited to file replies to any comments no later than five days after that date. In order to determine whether this product, or a viable alternative product, could be supplied in the U.S. market for the period of this review, the Secretary sent questionnaries to: Armco Inc. ("Armco"), Bethlehem Steel Corporation ("Bethlehem"), Citisteel USA ("Citisteel"), Geneva Steel Company ("Geneva"), Gulf States Steel ("Gulf States"), Inland Steel Industries ("Inland"), LTV Steel Company ("LTV"), Lukens Steel Company ("Lukens"), McLouth Steel ("McLouth"), National Steel Corporation ("National"), Oregon Steel, Inc. ("Oregon"), USX Corporation ("USX"), Wheeling-Pittsburgh Steel Corporation ("Wheeling-Pittsburgh"), and Weirton Steel Corporation ("Weirton"). The Secretary received adequate questionnaire responses from 10 of the 14 companies. No comments were filed in response to the **Federal Register** notice.

Questionnaire Responses:

Seven of the 10 respondents (Inland, USX, National, Gulf States, Armco, Lukens, and Weirton) responded that they could not produce slabs in the physical dimensions required by Rouge. One respondent, McLouth, stated that it could not produce critical exposed material. LTV indicated that it could supply ingot-teemed slabs meeting the physical specifications, but it could not produce concast slabs meeting the physical dimensions required. Bethlehem indicated that it may be able to supply up to 20,000 net tons in the second quarter of 1991, but it is unable to commit to this quantity so far in advance of the second quarter.

Analysis

Rouge Steel alleges that the Department presently can determine short supply exists for the requested period based upon the inability of the domestic steel industry to produce slabs meeting Rouge's specifications. Of the potential suppliers contacted, only two indicated that they could possibly supply material that would meet Rouge's needs. LTV stated that it could meet Rouge's requirements in the second quarter using ingot-teemed slabs. However, Rouge states that continuous cast material is necessary for the noted slabs. It states that this material will be used to produce automotive parts such as the outer skins of hoods, decks, roofs, fenders and doors, as well as the support pillars on roofs and the arms on hoods and trunks. In fact, its customers for the sheet products made from these slabs demand that the steel being supplied be made by the continuous cast process. Therefore, the continuous cast requirement represents a reasonable specification.

Bethlehem stated that it may be able to supply up to 20,000 net tons of continuous cast material meeting Rouge's specifications in the second quarter. However, Rouge notes that Bethlehem cannot currently commit to supply this quantity. The Secretary notes that this request includes three months for the production outage when the short-supply tonnage will be consumed and the six months prior to the outage. Since the market for slabs is very volatile, it is not unreasonable for Bethlehem to be unable to commit to supply the 20,000 net tons six months prior to the second quarter. However, it would be unreasonable for the Department to grant short supply this far in advance of the second quarter based on Bethlehem's lack of commitment. Therefore, this tonnage must be deducted from Rouge's total projected shortfall, leaving Rouge with a shortfall of 195,000 net tons. Should Rouge be informed in the neart future that Bethlehem will be unable to supply this material, the Secretary will reconsider its decision on this tonnage.

Conclusion

Because Rouge requires 215,000 net tons of continuous cast material to meet its production needs during the reline of its blast furnace in the second quarter, and because one domestic producer may supply up to 20,000 net tons of the needed material, the Secretary determines that short supply exists for 195,000 net tons of continuous cast steel slabs meeting Rouge's specifications. Pursuant to section 4(b)(4)(A) of the Act, and § 357.102 of Commerce's Short-Supply Procedures, the Secretary grants Rouge's request for a short-supply allowance of 195,000 net tons of certain continuous cast steel slabs for the fourth quarter of 1990 and the first and second quarters of 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90–25169 Filed 10–24–90; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

Business Development Center Applications: Williamsburg (Brooklyn) New York (Service Area)

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for approximately a 3 year period, subject to the availability of funds. The cost of performance for the first 12 months is estimated at $320,000 in Federal funds and a minimum of $56,470 in non-Federal contributions for the budget period April 1, 1991 to March 31, 1992. Cost-sharing contributions may be in the form of cash contributions, client fees for services, in-kind contributions, or combinations thereof. The MBDC will operate in the Williamsburg, Brooklyn, N.Y. SMSA geographic service area. This project should focus on assisting the minority business community in general and specifically the Hasidic Community of Williamsburg.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can

coordinate and broker public and private resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodology) to performing the work requirements included in the application (20 Points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive.

MBDC shall be required to contribute at least 15% of the total project cost through non-Federal contributions. Client fees for billable management and technical assistance (M&TA) rendered must be charged by MBDCs. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for the firms with gross sales of $500,000 or less and 35% of the total cost for firms with gross sales of over $500,000.

The MBDC may continue to operate, after the initial competitive year, for up to 2 additional budget periods. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDC based on such factors as an MBDC's satisfactory performance, the availability of funds and Agency priorities.

- Applicants who have an outstanding account receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements satisfactory to the Department are made to pay the debt.
- Section 319 of Public Law 101–121 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. A "Certification for Contracts, Grants Loans, and Cooperative Agreements" and the SF–LLL, "Disclosure of Lobbying Activities" (if applicable), is required.
- Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26. In accordance with the Drug-Free Workplace Act of 1988, each applicant must make the appropriate certification as a "prior condition" to receiving a grant or cooperative agreement.
- Awards under this program shall be subject to all Federal and Departmental regulations, policies, and, procedures applicable to Federal assistance awards.
- Applicants should be reminded that a false statement on the application may be grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment.

Closing Date: The closing date for applications is November 26, 1990. Applications must be postmarked on or before November 26, 1990.

ADDRESS: New York Regional Office, Minority Business Development Agency, Jacob K. Javits Federal Building, 3720, New York, New York 10278, Area Code/ Telephone Number: (212) 264–3262.

FOR FURTHER INFORMATION CONTACT: William R. Fuller, Regional Director, New York Regional Office.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372 "Intergovernmental Review of Federal Programs" is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: October 16, 1990.

William R. Fuller, Regional Director (Acting),

New York Regional Officer.

[FR Doc. 90–25254 Filed 10–24–90; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

Marine Mammals: Permits

AGENCY: National Marine Fisheries Service, NOAA, DOC.

ACTION: Modification #1 to Permit No. 537 (P77#16).

SUMMARY: The Northwest & Alaska Fisheries Center, National Marine Fisheries Service, 7600 Sand Point Way, NE., Seattle, Washington 98115, requested an extension of Permit No. 537. Notice is hereby given that pursuant to the provisions of §§ 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), Scientific Research Permit No. 537 is modified as follows:

Special Condition B.5 is revised to read:

"5. This Permit is valid with respect to the activities authorized herein until June 30, 1991."

This modification is effective upon publication in the Federal Register.

Documents submitted in connection with the above Permit and modification are available for review in the following offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, Silver Spring, Maryland 20910; and

Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, Washington 98115.

Dated: October 18, 1990.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 90–25198 Filed 10–24–90; 8:45 am]

BILLING CODE 3510–22–M

National Technical Information Service

Prospective Grant of Exclusive Patent License; Harrison Western Environmental Services, Inc.

This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Technical Information Service (NTIS), U.S. Department of Commerce, is contemplating the grant of coexclusive licenses in the United States to practice the invention embodied in U.S. Patent Application Number 7–429,326, "Polymer Bead Containing Immobilized Metal Extractant" to Harrison Western Environmental Services, Inc., having a place of business at 1208 Quail Street, Lakewood, Colorado 80215 and R.A. Hanson Company, Inc., having a place of business at North 8200 Crestline, Spokane, WA 99207. The patent rights in this invention have been assigned to the United States of America.

The prospective exclusive licenses will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive licenses may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the licenses would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The invention covers spherical polymeric beads having internal pore structures containing extractant material capable of sorbing toxic metals, a process for producing such beads and a method for removing toxic metal wastes dissolved in dilute aqueous streams.

The availability of the invention for licensing was published in the Federal Register of July 18, 1990, Vol. 55, No. 138, p. 29255. A copy of the instant patent application may be purchased from NTIS Sales Desk by telephoning 703/487–4650 or by writing to Order Department, NTIS, 5285 Port Royal Road, Springfield, VA 22161.

Inquiries, comments and other materials relating to the contemplated licenses must be submitted to Charles A. Bevelacqua, Center for Utilization of Federal Technology, NTIS, Box 1423, Springfield, VA 22151. Properly filed competing applications received by NTIS is response to this notice will be considered as objections to the grant of the contemplated licenses.

Douglas J. Campion,

Center for Utilization of Federal Technology, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 90–25178 Filed 10–24–90; 8:45 am]

BILLING CODE 3510–04–M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.165A]

Magnet Schools Assistance Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1991

Purpose of Program: Provides grants to eligible local educational agencies to support magnet schools that are part of approved desegregation plans.

Deadline for Transmittal of Applications: December 12, 1990.

Deadline for Intergovernmental Review: February 11, 1991.

Applications Available: October 24, 1990.

Available Funds: The Department has requested $113,189,000 for this program in fiscal year 1991. However, the level of funding is contingent upon final congressional action.

Estimated Range of Awards: $183,705–$4,000,000.

Estimated Number of Awards: 60.

Average Award: $1,886,000.

Project Period: 24 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82 (published at 55 FR 6736, February 26, 1990), 85, and 86 (published at 55 FR 33580, August 16, 1990); and (b) The regulations for this program in 34 CFR part 280.

SUPPLEMENTARY INFORMATION: Applicants must submit with their applications one of the following types of desegregation plans: (1) A plan required by a court order; (2) a plan required by a State agency or official of competent jurisdiction; (3) a plan required by the Office for Civil Rights (OCR), United States Department of Education, under Title VI of the Civil Rights Act of 1964 (Title VI plan); or (4) a plan voluntarily adopted by the applicant.

An applicant that submits a plan required by a court, State agency or official of competent jurisdiction, must obtain approval for any modification to the plan from the court, agency, or official that originally approved the plan. A previously approved desegregation plan that does not include the magnet school or program for which an applicant is now seeking assistance under this program must be modified to include the magnet school component, and the modification to the plan must be approved by a court, agency, or official, as appropriate. An applicant should indicate in its application if it is seeking to modify its previously approved plan. However, all applicants must submit proof to the Department of approval of all modifications to their plans by January 15, 1991. If an applicant submits a modification to a previously approved Title VI plan, the proposed modification will be reviewed by OCR for approval as part of this magnet schools application process.

An applicant submitting a desegregation plan as described in 1, 2, or 3 above, must provide an assurance that the plan is being implemented as approved. An applicant submitting a voluntary plan or a modification to a Title VI plan for approval by the Secretary must provide a copy of a school board resolution or other evidence of final official action adopting and implementing the plan, or agreeing to adopt and implement it if MSAP funds are made available.

For the purpose of reviewing voluntary and Title VI plans, the Secretary has adopted the following general statement of policy. It is the Secretary's intention, in reviewing a voluntary or Title VI plan for approval, to consider: (1) Whether each magnet school or program for which funding is sought actually reduces, eliminates or prevents minority group isolation, or is expected to do so, either in the magnet school(s) or in the school(s) from which students are drawn to attend magnet schools or programs, as appropriate; and (2) whether the establishment of the magnet school or program does not result in the increase of minority enrollment, at any school from which students are drawn to attend the magnet school or program, above the district-wide proportion of minority students at those schools.

The Secretary intends to apply both criteria as well as other pertinent factors in deciding whether to approve a plan. For a plan intended to reduce minority group isolation in a school, the Secretary will also consider whether, but for the magnet school, minority group isolation would be greater at that school.

FOR APPLICATIONS OR INFORMATION CONTACT: Annie R. Mack, U.S. Department of Education, 400 Maryland Avenue, SW., room 2059, FOB #6, Washington, DC 20202–6439. Telephone (202) 401–1361.

Program Authority: 20 U.S.C. 3021–3032.

Dated: October 18, 1990.

Lauro F. Cavazos,

Secretary of Education.

[FR Doc. 90–25174 Filed 10–24–90; 8:45 am]

BILLING CODE 4000–01–M

Education Indicators Special Study Panel; Meeting

AGENCY: Special Study Panel on Education Indicators; Meeting.

ACTION: Cancellation of meeting.

SUMMARY: This notice cancels a meeting of the Special Study Panel on Education Indicators scheduled for November 1–2, 1990 at the Hyatt Regency, 1 Bethesda Metro Center, Bethesda, Maryland, as announced in the Federal Register on October 2, 1990, (55 FR 40220).

Dated: October 22, 1990.

Thomas R. Hill,

Acting Assistant Secretary for Educational Research and Improvement.

[FR Doc. 90–25402 Filed 10–24–90; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. QF91–6–000, et al.]

Georgetown Cogeneration, L.P., et al.; Electric rate, Small power production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Georgetown Cogeneration, L.P.

[Docket No. QF91-6-000]

October 17, 1990.

On October 2, 1990, Georgetown Cogeneration, L.P., of 701 East Byrd Street, Richmond, Virginia 23219, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Washington, D.C. on the campus of Georgetown University. The facility will consist of a combustion turbine generator, a supplementary fired waste heat recovery boiler and an extraction/condensing steam turbine generator. Thermal energy recovered from the facility will be used for campus heating and cooling requirements. The maximum net electric power production capacity of the facility will be 56 MW. The primary source of energy will be natural gas. Construction of the facility is expected to commence in 1991.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

2. PacifiCorp Electric Operations and Arizona Public Service Company

[Docket No. ER91-26-000]

October 18, 1990.

Take notice that on October 12, 1990, PacifiCorp Electric Operations ("PacifiCorp") and Arizona Public Service Company ("Arizona") (collectively the "Companies") jointly tendered for filing, in accordance with 18 CFR 35.13 of the Commission's Rules and Regulations, an Asset Purchase and Power Exchange Agreement, Transmission Agreement and Long-Term Power Transactions Agreement between the Companies each dated September 21, 1990. Collectively these agreements provide PacifiCorp with transmission rights associated with purchased generation facilities in Arizona, reciprocal use of the parties' Cholla plant and combustion turbine generating facilities, firm power sales by PacifiCorp to Arizona, seasonal power exchanges, transmission system improvements energy storage services an energy purchase option and additional transmission rights.

The Companies request, that the notice requirements prescribed in 18 CFR 35.3 be waived and that the agreements be made effective as of January 11, 1991, the negotiated effective date of the agreements and the closing of the transactions.

Copies of this filing have been served upon the Arizona Corporation Commission, the Public Utilities Commission of the State of California, the Idaho Public Utilities Commission, the Montana Public Service Commission, the Public Utility Commission of Oregon, the Utah Public Service Commission, the Washington Utilities and Transportation Commission and the Public Service Commission of Wyoming.

Comment date: November 1, 1990, in accordance with Standard Paragraph E at the end of this notice.

3. American Municipal Power-Ohio, Inc., City of Dover, Ohio, City of Orrville, Ohio, City of St. Marys, Ohio, City of Shelby, Ohio, City of Hamilton, Ohio, Complainants v. Ohio Power Company, American Electric Power Company, Inc., Respondents

[Docket No. EL91-1-000]

October 18, 1990.

Take notice that on October 15, 1990, American Municipal Power-Ohio, Inc. ("AMP-Ohio") and the Cities of Dover, Orrville, St. Marys, Shelby, and Hamilton, Ohio, pursuant to Rules 206, 207 and 212 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206, 385.207, 385.212, and §§ 206 and 306 of the Federal Power Act, 16 U.S.C. 824e, 825e, filed a Complaint, Petition for Declaratory Order and Request for Hearing and Refund Effective Date (and related motions) against Ohio Power Company and American Electric Power Company, Inc.

The Complaint alleges that AMP-Ohio and Ohio Power are parties to an Interconnection Agreement dated as of April 1, 1974 ("1974 Agreement"), and that four of the Cities currently obtain services from Ohio Power through AMP-Ohio under the 1974 Agreement. The Complaint alleges that Ohio Power has breached the 1974 Agreement in a number of respects, including improperly charging AMP-Ohio and the Cities for power and energy at Excess Inadvertent rates, imposing reserve requirements not provided for in the 1974 Agreement, and refusing to provide additional or upgraded interconnection points. Certain issues relating to Excess Inadvertent charges and reserve requirements are the subject of Docket No. EL90-42-000.

The Complaint also alleges that certain rates, terms and conditions of the 1974 Agreement are unjust and unreasonable.

AMP-Ohio and the Cities request the Commission to initiate a hearing to investigate the allegations made by them in the Complaint and to establish just and reasonable rates, terms and conditions for the services at issue. AMP-Ohio and the Cities also request the Commission to invoke the provisions of the Regulatory Fairness Act, Pub. L. 100-473 (1988) and establish a Refund Effective Date 60 days after the date of this filing.

Comment date: November 19, 1990, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 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. 90-25185 Filed 10-24-90; 8:45 am]

BILLING CODE 6717-01-M

Western Area Power Administration

Boulder Canyon Project—Proposed Power Rate

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed power rate adjustment, Boulder Canyon project.

SUMMARY: The Western Area Power Administration (Western) is proposing to adjust the rates for the sale of power and energy from the Boulder Canyon Project (BCP). The rate adjustment for the BCP is necessary to cover annual operating expenses and to repay the Federal investment and the funds advanced by certain customers to complete the uprating of existing generating units (Uprating Program) of the BCP. The proposed rate schedule is composed of an energy charge of 5.00 mills per kilowatthour (kWh) and a capacity charge of $1.03 per kilowatt (kW) per month. The present rate schedule is composed of an energy

charge of 3.41 mills per KWh for energy and $0.75 per kW per month for capacity. The present power rate was placed in effect on June 1, 1987.

The power repayment study utilized in the calculation of the proposed capacity charge and energy rate indicates that this charge and rate will provide sufficient revenue to pay all annual costs plus required debt service.

Western has analyzed the subject study and notes that the ratesetting year is fiscal year (FY) 1995. As a result of the high annual costs (operation, maintenance, replacements, and the Uprating Program debt service) during the first 5 future years (FY's 1991–1995), the power repayment study has calculated, consistent with Departmental policy and the BCP's general regulations for sale of power, an average capacity charge and energy rate. However, the calculated average capacity charge and energy rate result in an accumulation of significant revenues in excess of the annual cost and required debt service after FY 2008.

In order to provide the necessary cash-flow to the Bureau of Reclamation (Reclamation) for the operation, maintenance, replacement, and debt service during FY's 1991–1995, Western must set the rates at the proposed level with the expectation of reducing these rates at some time in the future (after the critical cash-flow period has been resolved).

Western is also considering an alternative to the above-described proposal that would consist of a base rate and an additional revenue assessment component. Under this approach, the rate schedule is composed of an energy charge of 4.56 mills per kilowatthour (kWh) and a capacity charge of $0.94 per kilowatt (kW) per month with a revenue assessment to be effective for each of fiscal years (FY) 1991–1995. The revenue amounts will be determined by the project requirements less revenues expected to be realized from the base rate. These revenues will differ from year to year and be distributed to customers based upon the customer's amount of Hoover entitlement.

The power repayment study utilized in the calculation of this alternative indicates that this rate, plus an associated revenue assessment during the period of FY's 1991–1995, will provide sufficient revenue to pay all annual costs plus required debt service.

Western has analyzed this alternative study and notes that the ratesetting year is FY 2012. As a result of the high annual costs (operation, maintenance, interest, replacements, and the Uprating Program debt service) during the years 1991–2017, the power repayment study calculates an average capacity charge and energy rate that results in an accumulation of significant revenues in excess of the annual cost and required debt service after FY 2018.

Adoption of this alternative would provide the necessary cash-flow to Reclamation for the operation, maintenance, replacement, and debt service during FY's 1991–1995. In addition, it would reduce the revenues in excess of the annual cost and required debt service during the study period through a base rate for the study period with an annual revenue assessment to be effective for each of FY's 1991–1995. This option was discussed with the customers during an informal meeting on September 7, 1990, and may be further discussed, as well as any other options offered by the customers, during the public participating and consultation period.

Under either alternative, Western will continue to add to the proposed rate a charge of 2.5 mills for every kWh of energy generated from the BCP and sold to customers in California and Nevada, and 4.5 mills for every kWh of energy generated from the BCP and sold to customers in Arizona for augmentation of the Lower Colorado River Basin Development Fund.

This notice will cancel the Notice of Proposed Power Rates, Boulder Canyon Project, published in the **Federal Register** on June 22, 1988 (53 FR 23446), which provided notice of a proposed rate of 3.94 mills per kWh for energy and $0.91 per kW for capacity. On May 17, 1989, the Administrator of Western submitted Rate Order No. WAPA–41 to the Deputy Secretary for approval of rates adjusted to 3.01 mills per kWh for energy and $0.62 per kW per month for capacity, which was a composite rate reduction of about 17 percent. Subsequently, due to further review of more recent BCP cost data, Western withdrew its request for approval of the proposed rates under Rate Order No. WAPA–41, and the rate order was returned to Western on October 16, 1989, without action. By letter dated October 24, 1989, Western's Boulder City Area Office [1] notified the BCP contractors about the withdrawal of Rate Order No. WAPA–41.

The proposed rates provided for in this notice will replace the rates put into effect on an interim basis on June 1, 1987, by the Under Secretary of the Department of Energy (DOE) and approved on a final basis by the Federal Energy Regulatory Commission (FERC) order issued May 18, 1988.

In Rate Order No. WAPA–34 (52 FR 21351, June 5, 1987), Western indicated that a new computer program would be developed and that issues raised in the determination of the rates put into effect on June 1, 1987, would be addressed. Western developed the new computer program, which included the modifications requested by the BCP customers. The new program, which was explained to the BCP customers at an informal meeting held in Los Angeles, California, on May 5, 1988, was used in the rate analysis in determining the need for this rate adjustment. The research and analysis information in support of the need for and the probable effect of the proposed rates, including the BCP repayment analysis, is available for review and copying at Western's Boulder City Office. In addition, copies of the revenue requirements analysis to support the need for the adjusted rates will be distributed to the BCP customers and other interested parties. Since the proposed rates constitute a major rate adjustment as defined by the current procedures for public participation in general rate adjustments, as cited below, a public information and a public comment forum will be held. After review of public comments, Western will recommend final proposed rates.

DATES: the effective date of the rate adjustment is intended to be the first full billing period beginning not less than 30 days after the rates are put into effect on an interim basis by the Deputy Secretary of DOE. The consultation and comment period will begin with publication of this notice in the **Federal Register** and will end January 28, 1991. A public information forum at which Western will outline the methodology used in developing the proposed rates will be held at 10 a.m. on November 15, 1990. A public comment forum at which Western will receive oral and written comments will be held at 10 a.m. on November 30, 1990.

Written comments should be received by the end of the consultation and comment period to be assured consideration and should be sent to the address below.

ADDRESSES: The public information forum and public comment forum will be held at Western's Boulder City Office, 3 miles south on Buchanan Road, Boulder City, Nevada, on the dates and times cited above. Written comments may be sent to:

Mr. Thomas A. Hine, Area Manager,
Phoenix Area Office, Western Area

[1] Effective June 17, 1990, the Boulder City Area Office became the Phoenix Area Office located in Phoenix, Arizona.

Power Administration, P.O. Box 6457, Phoenix, AZ 85005.

A copy of written comment should also be sent to the Assistant Area Manager for Power Marketing at the address below.

FOR FURTHER INFORMATION CONTACT: Mr. Earl W. Hodge, Assistant Area Manager for Power Marketing, Boulder City Office, Phoenix Area Office, Western Area Power Administration, P.O. Box 200, Boulder City, NV 89005, (702) 294–3255.

SUPPLEMENTARY INFORMATION: Power rates for the BCP are stablished pursuant to the Department of Energy Organization Act (42 U.S.C. 7101, *et seq.*); the Reclamation Act of 1902 (43 U.S.C. 372) and all acts amendatory thereof and supplementary thereto, and particularly section 9(c) of the Reclamation Act of 1939 (43 U.S.C. 485h(c)); the Colorado River Basin Project Act of 1968 (43 U.S.C. 1501, *et seq.*); the Boulder Canyon Project Act of 1928 (43 U.S.C. 617, *et seq.*); the Boulder Canyon Adjustment Act of 1940 (43 U.S.C., 618, *et seq.*); the Hoover Power Plant Act of 1984 (43 U.S.C. 619, *et seq.*); and the General Regulations for the Charges for the Sale of Power from the Boulder Canyon Project, Final Rule (General Regulations) (10 CFR part 904) published in the **Federal Register** at 51 FR 43114 on November 28, 1986. By Delegation Order No. 0204–108, effective December 14, 1983 (48 FR 55664), as amended May 30, 1986 (51 FR 19744), reassigned by DOE Notice 1110.29 dated October 27, 1988, and clarified by Secretary of Energy Notice SEN–10–89 dated August 3, 1989, and subsequent revisions, the Secretary of Energy delegate: (1) The authority on a nonexclusive basis to develop long-term power and transmission rates to the Administrator of Western; (2) the authority to confirm, approve, and place such rates in effect on an interim basis to the Deputy Secretary of DOE; and the authority to confirm, approve, and place in effect on a final basis, to remand, or to disapprove such rates to FERC.

The procedures for public participation in rate adjustments for power marketed by Western are formally cited as Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions (10 CFR part 903), published in the **Federal Register** at 50 FR 37837 on September 18, 1985, and 50 FR 48075 on November 21, 1985.

Availability of Information

All brochures, studies, comments, letters, memorandums, and other documents made or kept by Western for the purpose of developing the proposed rate are and will be available for inspection and copying at the Boulder City Office, located at the address noted above.

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, the initiation of the BCP rate adjustment is related to nonregulatory services provided by Western at a particular rate. Under 5 U.S.C. 601(2), rules of particular applicability relating to rates or services are not considered rules within the meaning of the act. Since the BCP rate is of limited applicability, no flexibility analysis is required.

Determination Under Executive Order 12291

DOE has determined that this is not a major rule within the meaning of the criteria of section 1(b) of Executive Order 12291. In addition, Western is exempt from sections 3, 4, and 7 of that order, and therefore will not prepare a regulatory impact statement.

Paperwork Reduction Act of 1980

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520) requires that certain information collection requirements be approved by the Office of Management and Budget (OMB) before information is demanded of the public. OMB has issued a final rule on the Paperwork Burdens on the Public (48 FR 13666) dated March 31, 1983. Ample opportunity was provided in the proposed rule for the interested public to participate in the development of the General Regulations. There is no requirement that members of the public participating in the development of the BCP rate supply information about themselves to the Government. It follows that the BCP rates are exempt from the Paperwork Reduction Act.

Environmental Evaluation

In compliance with the National Environmental Policy Act of 1969 (NEPA), Council on Environmental Quality Regulations (40 CFR parts 1500 through 1508), and DOE guidelines published in the **Federal Register** on December 15, 1987 (52 FR 47662), Western conducts an environmental evaluation of the proposed rate adjustments.

Section D of the DOE guidelines identifies the appropriate level of NEPA compliance for rate adjustments. Western will evaluate the proposed rate adjustment and prepare the appropriate documentation of NEPA compliance.

Issued at Golden, Colorado, October 16, 1990.

William H. Clagett,

Administrator.

[FR Doc. 90–25267 Filed 10–24–90; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 3854–7]

California State Motor Vehicle Pollution Control Standards; Waiver of Federal Preemption; Decision

AGENCY: Environmental Protection Agency.

ACTION: Notice of waiver of federal preemption.

SUMMARY: EPA is granting California a waiver of Federal preemption pursuant to section 209(b) of the Clean Air Act, as amended, 42 U.S.C. 7543(b), to adopt and enforce its revised emission standards and accompanying regulatory amendments for 1993 and later model year passenger cars and light duty trucks.

ADDRESSES: A copy of the above standards and procedures, and other amendments, the decision document containing an explanation of the Administrator's determination and the record of those documents used in arriving at this decision are available for public inspection in Docket A–90–11 during the working hours of 8:30 a.m. to 12 p.m., and 1:30 p.m. to 3:30 p.m., at the U.S. Environmental Protection Agency, Air Docket (LE–131), room M1500, First Floor Waterside Mall, 401 M Street, SW., Washington, DC 20460. Copies of the decision document can be obtained from EPA's Manufacturers Operations Division by contacting either Robert Doyle or Andy Brooks, whose address and telephone numbers appear below.

FOR FURTHER INFORMATION CONTACT: Rober M. Doyle, Attorney/Advisor, Manufacturers Operations Division (EN–340F), U.S. Environmental Protection Agency, Washington, DC 20460, Telephone: (202) 475–8656 or Andy Brooks, Chief, Recall Branch, Manufacturers Operations Division (EN–340F), U.S. Environmental Protection Agency, Washington, DC 20460, Telephone: (202) 382–2491.

SUPPLEMENTARY INFORMATION: I have decided to grant California a waiver of Federal preemption pursuant to section 209 (b)of the Clean Air Act, as amended (Act), 42 U.S.C. 7543(b), for its amendments which establish new standards, certification and enforcement procedures for 1993 and later model year passenger cars and light duty trucks. I also have determined that certain of CARB's amendments are within the scope of waivers of Federal preemption previously granted pursuant to section 209(b) of the Act.[1]

By letter dated April 23, 1990, the California Air Resources Board (CARB) submitted to the U.S. Environmental Protection Agency (EPA) a request for waiver of Federal preemption to enforce certain amendments to its motor vehicle pollution control program.[2] These amendments establish new, more stringent standards for hydrocarbon (HC) and carbon monoxide (CO) emissions from new light duty vehicles (LDVs) beginning with model year 1993.[3] The amendments also extend the applicable period of the amended HC and CO standards to 100,000 miles, thus requiring manufacturers to demonstrate at certification that their vehicles can meet the new HC and CO emission standards to 100,000 miles.[4] The new certification standards are to be phased in over the 1993 to 1995 model years, with manufacturers to certify 40 percent of their model year 1993 vehicles, 80 percent of their model year 1994 vehicles and 100 percent of their model year 1995 vehicles to the new standards. Small volume manufacturers are exempt from the new certification standards until model year 1995, when the standards apply to 100 percent of the vehicles produced by the small volume manufacturers.[5]

The amendments also establish separate in-use compliance standards for LDVs. Until model year 1997, the amendments allow manufacturers some transitional relief regarding in-use compliance by establishing "alternative in-use standards". For the 1993 and 1994 model years, the in-use compliance standards for HC and CO are relaxed to levels less stringent than the corresponding certification standards for these pollutants. In addition, in-use compliance enforcement for the 1993 and 1994 model year vehicles is limited to 50,000 miles. During model years 1995 and 1996, the stricter in-use compliance standards are in effect (i.e., the in-use standards are the same as the certification standards) but the enforcement period for those in-use standards will be phased in. For the 1995 and 1996 model years, respectively, 60 percent and 20 percent of a manufacturer's vehicles are permitted to use "alternative in-use compliance" standards (the relaxed standards from the 1993/1994 model years). The remaining respective 40 percent and 80 percent of production, however, must comply with the stricter in-use standards. In model year 1997, the certification standards and the in-use compliance standards become identical and all LDVs must comply with these standards for 100,000 miles.

Small volume manufacturers are not required to meet the 40 percent or 80 percent phase-in requirements; they are permitted to use the relaxed alternative in-use standards for all their production through the 1996 model year. Thereafter, all their vehicles are subject to the stricter in-use standards. Accordingly, there is no in-use compliance phase-in for small volume manufacturers.

To correspond to the new 100,000 mile durability certification standard, CARB has amended its recall regulations to establish a "useful life" for LDVs of 100,000 miles or 10 years, whichever occurs first. Therefore, the applicable recall period for vehicles certified to the new HC and CO standards is 100,000 miles or 10 years, whichever comes first. Although the recall liability extends to 100,000 miles, the amended standards direct that in-use compliance (i.e., recall) testing will not be conducted on vehicles with mileage accumulations of over 75,000 miles. CARB stated that it was practical to impose an upper limit on in-use testing for three reasons. First, the CARB mileage limit of 75,000 miles, or 75 percent of the useful lives of the affected vehicles, is consistent with the current Federal practice of setting the upper-limit compliance testing of 75 percent of useful life for vehicles and engines with longer useful lives (i.e., light-duty trucks and heavy-duty engines.) Second, CARB believes that it is difficult to procure acceptable in-use test vehicles with high mileages that have been maintained properly. Finally, CARB believes that the emission benefit of recalling and fixing failing engine families declines when older vehicles are involved since the cumulative emissions benefit per vehicle would be reduced because of its shorter remaining life.

The new certification requirements and durability requirements take effect beginning in the 1993 model year. To ease the burden of compliance for manufacturers, CARB has developed a phase-in schedule for the standards which results in a mix of vehicles with respect to the certification and in-use standards during model years 1993 through 1996. The following table shows this phase-in schedule:

[1] *See* 55 FR 28823 (July 13, 1990), 53 FR 21523 (June 8, 1988), and 49 FR 43502 (October 29, 1984).

[2] *See* letter from James D. Boyd, Executive Officer, CARB, to William K. Reilly, Administrator, EPA, dated April 23, 1990.

[3] The CARB amendments use the term "light-duty vehicles" (LDVs) to include passenger cars (PCs) and light-duty trucks (LDTs). LDTs are further broken down to "light light-duty trucks" (up to 3750 lbs. loaded vehicle weight) and "heavy light-duty trucks (from 3751 lbs. to 5750 lbs.).

[4] The CARB standards for exhaust emissions of nitrogen oxide (NO_x) and the standards for evaporative emissions both have a durability requirement of 50,000 miles.

[5] Title 13, California Code of Regulations, section 1960.1, as amended, defines "small volume manufacturer" to include any manufacturer with California sales of fewer than 3000 units.

Certification and In-use Standards Phase-in Percent Compliance per Model Year

[Based upon sales volume]

Model year	Certify to New Stds. (Percent)	Certify to Former Stds. (Percent)	Comply w/ Intermediate In-use Stds. (Percent)	Comply w/Final In-use Stds. (Percent)
1993	40	60	100	n/a
1994	80	20	100	n/a
1995	100	n/a	60	40
1996	100	n/a	20	80

Certification and In-use Standards Phase-in Percent Compliance per Model Year—Continued

[Based upon sales volume]

Model year	Certify to New Stds. (Percent)	Certify to Former Stds. (Percent)	Comply w/ Intermediate In-use Stds. (Percent)	Comply w/Final In-use Stds. (Percent)
1997	100	n/a	n/a	100

The amendments also establish new certification procedures under which manufacturers must demonstrate 100,000 mile vehicle emission control durability. Manufacturers may satisfy this requirement either by providing emission data after accumulating 100,000 miles on a durability data vehicle, or by accumulating no fewer than 75,000 miles on a durability data vehicle and submitting other information (such as bench test data or in-use emission data) which will project compliance at 100,000 miles. If a manufacturer wishes to employ the alternative compliance durability vehicle test (i.e., submitting the 75,000 mile accumulation data, and the supplementary data), it must receive advance approval from the CARB Executive Director.

Manufacturers may choose to accrue durability data on either California configuration or "50-state" configuration vehicles, or on Federal ("49-state") vehicles, under certain conditions. Manufacturers may use Federal durability data vehicles during the phase-in period (model years 1993–1996) if the durability data were generated by a vehicle certified by EPA or CARB prior to the 1993 model year. In addition, even after model year 1996, manufacturers may request advance permission from the CARB Executive Director to use data from a later model year Federal durability vehicle if that vehicle's emission control system configuration is similar to the configuration in the corresponding California vehicle.

Manufacturers must also demonstrate that the durability vehicle can comply with the requirements of California's Inspection and Maintenance (I/M) Test standards. CARB adopted this amendment in an attempt to eliminate the problem of vehicles which are able to pass California certification, but, because of their design, may be prone to fail the California I/M test, even though the vehicles are properly maintained and used.[6]

Finally, CARB has amended existing regulations which implemented the "AB 965 Program" [7], also called the "Offset Program". Under this program, manufacturers may certify for sale in California certain Federally-certified vehicles if the excess emissions from these vehicles that exceed the California standards can be offset by the manufacturer's California certified vehicles with emissions below the California standards. The program grants manufacturers credits for their low-emitting California vehicles which they can then apply to their Federally certified vehicles which do not meet the California standards. The offset program thus allows manufacturers to sell in California vehicles which could not ordinarily be sold there, increasing model availability for California consumers.[8]

There are two amendments to the AB 965 program. First, the amendments add HC to the list of pollutants which are eligible for credits. Before the new CARB HC standards were adopted, the Federal and the California standards for total HC were identical (0.41 grams per mile (gpm)).[9] Since the offset program includes only those vehicle pollutants for which the California standards are more stringent than the Federal standards, HC was not previously eligible for the offset program. Because the new California HC standard is more stringent than the Federal standards (0.25 gpm non-methane hydrocarbons versus 0.41 gpm total hydrocarbons), the amendments make HC credits available to manufacturers participating in the AB 965 program.

Second, the amendments reduce by half the offset credits for CO and NOx available to manufacturers. CARB notes that in recent years, model unavailability has decreased significantly in California. CARB states that much of the usage of the AB 965 program is for economic and not technical reasons; although many of the vehicles now in California through the AB 965 program could have achieved compliance with California standards, it is less expensive and more convenient for manufacturers to use the AB 965 program and certify to the Federal standards only. Therefore, manufacturers have a reduced technological need for these AB 965 credits. CARB notes that the reduction in the available AB 965 credits will reduce the adverse emissions impact of the offsets program.

On May 15, 1990, EPA published a notice of opportunity for a public hearing and a request for written comments concerning California's request.[10] EPA received no request for a hearing, but received comments from three interested parties which have been addressed in the Decision Document. This determination is thus based on CARB's written submissions, the written comments received by EPA, and all other relevant information.[11]

[6] For example, CARB reported that the California-certified 1985 and 1986 Ford Bronco and Aerostar have an I/M failure rate of approximately 60% due to the calibration of their air injection systems. *See* "Staff Report: Initial Statement of Reasons for Proposed Rulemaking," pp. 7–8, April 21, 1989, Docket A–90–11.

[7] "AB 965" stands for California Assembly Bill 965, the California law which established the offset program.

[8] These vehicles are usually high-performance cars.

[9] Under the former CARB procedures, manufacturers could certify their vehicles to either a total HC standard (0.41 gpm) or a non-methane HC standard (0.39 gpm).

[10] 55 FR 20189 (May 15, 1990).

[11] All this information is contained in Docket A–90–11. CARB's responses to the various comments by manufacturers and others are contained in the CARB document entitled "Final Statement of Reasons for Rulemaking, Including Summary of Comments and Agency Responses", an undated document submitted to EPA in the package of documents supporting CARB's waiver request. Other pertinent discussion of the technological feasibility, lead time and cost issues is found in the earlier CARB documents entitled "Staff Report: Initial Statement of Reasons for Proposed Rulemaking", dated April 21, 1989, and "Technical Support Document for A Proposal to Amend Regulations Regarding Exhaust Emission Standards, Test Procedures and Durability Requirements Applicable to Passenger Cars and Light-Duty Trucks for the Control of Hydrocarbon, Carbon Monoxide and Benzene Emissions", dated June 8, 1989.

Section 209(b) of the Act provides that, if certain criteria are met, the Administrator shall waive Federal preemption for California to enforce new motor vehicle emission standards and accompanying enforcement procedures. These criteria are consideration of whether California arbitrarily and capriciously determined that its standards are, in the aggregate, at least as protective of public health and welfare as the applicable Federal standards; whether California needs the State standards to meet compelling and extraordinary conditoins; and whether California's amendments are consistent with section 202(a) of the Act. As previous decisions granting waivers of Federal preemption have explained, State standards are inconsistent with section 202(a) if there is inadequate lead time to permit the development of the necessary technology given the cost of compliance within that time period or if the Federal and State test procedures impose inconsistent certification requirements.[12]

With regard to enforcement procedures accompanying standards, I must grant the requested waiver unless I find that these procedures may cause the California standards, in the aggregate, to be less protective of public health and welfare than the applicable Federal standards promulgated pursuant to section 202(a), or unless the Federal and California certification and test procedures are inconsistent.[13]

CARB has made a determination that, with the adoption of the new amendments, its State standards are, in the aggregate, at least as protective of public health and welfare as applicable Federal standards.[14] This conclusion is supported by the fact that the amended California standards are either equal to or more stringent than the corresponding Federal standards. Additionally, the increased vehicle durability standards in California will mean that vehicles produced to these new standards have a greater potential to be cleaner for a longer period than their counterpart Federally-certified vehicles.[15] No comments were received which question either CARB's "protectiveness" determination for these standards, or whether the new certification requirements undermine the protectiveness of the standards. Therefore, based on the record before me, I find that CARB's amendments do not undermine its determination that its state standards are, in the aggregate, at least as protective of public health and welfare as applicable Federal standards.

CARB has repeatedly demonstrated the existence of compelling and extraordinary conditions in California justifying California's need for its own motor vehicle pollution control program.[16] In its letter requesting this waiver, CARB stated that California continues to experience serious air pollution problems, unique to the state, which justify its need to achieve the maximum reductions in emissions from motor vehicles.[17] Based on previous showings by California in this regard, CARB's submission to the record, and the absence of any public comments questioning the need for CARB's own motor vehicle pollution control program, I agree that California continues to face the requisite compelling and extraordinary conditions. Thus, I cannot deny the waiver request on the basis of a lack of compelling and extraordinary conditions.

CARB has submitted information demonstrating that the requirements of its emissions standards and test procedures are consistent with section 202(a) of the Act. CARB stated its finding that the revised emission standards are technologically feasible within the lead time provided considering the costs of compliance because appropriate technology enabling vehicles to meet these standards is widely available and readily adaptable. No commenter submitted data or other information sufficient to satisfy its burden of persuading EPA that the standards are not technologically feasible within the available lead time, considering costs. With regards to certification, manufacturers will be able to satisfy both the current Federal certification requirements and the amended CARB certification requirements by running the same test on a single vehicle. No comments were received from manufacturers or other interested parties that questioned CARB's finding of consistency between the CARB requirements and the Federal reqirements. Therefore, I cannot find that California's amendments will be inconsistent with section 202(a) of the Act. Accordingly, I hereby grant the waiver requested by California.

With respect to CARB's request for confirmation of a "within the scope" determination, I find that CARB's amended recall and offset program regulations do not undermine CARB's "protectiveness" determination and are not inconsistent with section 202(a). I must also evaluate CARB's confirmation request against the third prong of the "within the scope" test; i.e., whether the amendments raise any new issues regarding previous waiver decisions. Based on my review of the record of the CARB proceding, and the absence of any comment on this issue in the EPA waiver proceeding, I find that no new issues regarding previous waiver decisions are raised by these proceedings. Therefore I find that the amendments to the CARB recall and offset program regulations are within the scope of previous waivers.

My decision will affect not only persons in California but also the manufacturers outside the State who must comply with California's requirements in order to produce motor vehicles for sale in California. For this reason, I hereby determine and find that this is a final action of national applicability.

Under section 307(b)(1) of the Clean Air Act, judicial review of this final action may be sought only in the United States Court of Appeals for the District of Columbia Circuit. Petition for review must be filed by December 24, 1990. Under section 307(b)(2), judicial review may not be obtained in subsequent enforcement proceedings.

This action is not a rule as defined by section 1(a) of Executive Order 12291, 46 FR 13193 (February 19, 1981). Therefore, it is exempt from review by the Office of Management and Budget as required for rules and regulations by Executive Order 12291. Nor is a Regulatory Impact Analysis being prepared under Executive Order 12291 for this waiver determination, since it is not a rule.

In addition, this action is not a rule as defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2). Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on small business entities.

Finally, the Administrator has delegated the authority to grant a State a waiver of Federal preemption, under

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[12] *See, e.g.*, 43 FR 32182 (July 25, 1978).

[13] *See, e.g., Motor and Equipment Manufacturers Association, Inc.* v. *EPA*, 627 F.2d 1095, 1111–14 (D.C. 1979), *cert. denied*, 446 U.S. 952 (1980); 43 FR 25729 (June 14, 1978), ("*MEMA I*").

To be consistent, the California procedures need not be identical to the Federal procedures. California procedures would be inconsistent, however, if manufacturers would be unable to meet both the state and the Federal requirements with the same vehicle. *See, e.g.*, 43 FR 32182 (July 25, 1978).

[14] CARB Resolution 89–61, at p. 6, (June 8, 1989).

[15] This statement is based upon a comparison of the new California standards with current Federal standards. If the Clean Air Act is amended, there may be a need for EPA to reconsider this waiver decision to ensure that the protectiveness criteria of section 209 are still met.

[16] *See, e.g.*, 49 FR 18887, 18890–91 (May 31,1984).

[17] *See* letter from James D. Boyd, Executive Officer, CARB, to William K. Reilly, Administrator, EPA, p. 6, dated April 23, 1990.

section 209(b) of the Act to the Assistant Administrator for Air and Radiation.

Dated: October 19, 1990.

William G. Rosenberg,

Assistant Administrator for Air and Radiation.

[FR Doc. 90–25265 Filed 10–24–90; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59896; FRL 3838–6]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 23 such PMN(s) and provides a summary of each.

DATES: Close of Review Periods:

Y 90–281, September 17, 1990.

Y 90–285, October 4, 1990.

Y 90–286, 90–287, 90–288, October 8, 1990.

Y 90–289, 90–292, October 15, 1990.

Y 90–294, October 16, 1990.

Y 91–1, 91–2, 91–3, 91–4, 91–5, 91–6, October 22, 1990.

Y 91–7, October 25, 1990.

Y 91–8, 91–9, 91–10, 91–11, October 29, 1990.

Y 91–12, 91–13, 91–14, 91–15, October 30, 1990.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS–799), Office of Toxic Substances, Environmental Protection Agency, room E–545, 401 M Street, SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA The complete nonconfidential document is available in the Public Reading Room NE–G004 at the above address between 8 a.m. and noon, and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

Y 90–281

Importer. Reichhold Chemicals, Inc.

Chemical. (G) Alkyd resin.

Use/Import. (S) Industrial coatings. Import range: Confidential.

Y 90–285

Manufacturer. General Electric Company, Plastics Group.

Chemical. (G) Aromatic-cycloaliphatic copolyester.

Use/Production. (G) Thermoplastic molding resins. Prod. range: Confidential.

Y 90–286

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Unsaturated polyester.

Use/Production. (S) Flexible blending resin for high-performance marine applications. Prod. range: Confidential.

Y 90–287

Manufacturer. Cook Composites and Polymers, Co.

Chemical. (G) Acrylic copolymer.

Use/Production. (S) High solids two-component acrylic urethane enamel. Prod. range: 17,000–21,000 kg/yr.

Y 90–288

Manufacturer. Sybron Chemicals, Inc.

Chemical. (G) Benzene, ethenylethyl-, polymer with butyl 2-propenoate, diethylbenzene, ethoxylbenzene and (1-methylethyl) benzene.

Use/Production. (S) Toner polymer for use in reprographic inks. Prod. range: Confidential.

Y 90–289

Importer. Confidential.

Chemical. (G) Polyester resin.

Use/Import. (G) An additive in the plastic industry. Import range: Confidential.

Y 90–292

Importer. Confidential.

Chemical. (G) Aliphatic polyurethane resin.

Use/Import. (S) Textile coating. Import range: Confidential.

Y 90–294

Importer. Guthrie Latex Inc.

Chemical. (S) Formic acid; hydrogen peroxide; natural rubber.

Use/Import. (S) Manufacture of general and specialty rubber goods. Import range: 1,000,000 kg/yr.

Y 91–1

Manufacturer. Confidential.

Chemical. (G) Styrene-acrylic polymer.

Use/Production. (G) Overprint varnishes for paper. Prod. range: Confidential.

Y 91–2

Manufacturer. Confidential.

Chemical. (G) Styrene-acrylic polymer, ammonium salt.

Use/Production. (G) Overprint varnishes for paper. Prod. range: Confidential.

Y 91–3

Manufacturer. Confidential.

Chemical. (G) Styrene-acrylic polymer, *N,N*-dimethylethanolamine salt.

Use/Production. (G) Overprint varnishes for paper. Prod. range: Confidential.

Y 91–4

Manufacturer. Confidential.

Chemical. (G) Styrene-acrylic polymer, 2-amino-2-methyl propanol salt.

Use/Production. (G) Overprint varnishes for paper. Prod. range: Confidential.

Y 91–5

Manufacturer. Confidential.

Chemical. (G) Styrene-acrylic polymer, 2-amino ethanol salt.

Use/Production. (G) Overprint varnishes for paper. Prod. range: Confidential.

Y 91–6

Manufacturer. Confidential.

Chemical. (G) Styrene-acrylic polymer, sodium salt.

Use/Production. (G) Overprint varnishes for paper. Prod. range: Confidential.

Y 91–7

Manufacturer. Confidential.

Chemical. (G) Styrene-acrylic modified polyester.

Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

Y 91–8

Manufacturer. S.C. Johnson & Sons, Inc.

Chemical. (G) Aqueous acrylic polymer and aqueous acrylic polymer salts.

Use/Production. (G) Aqueous emulsion polymers. Prod. range: Confidential.

Y 91–9

Manufacturer. S.C. Johnson & Sons, Inc.

Chemical. (G) Aqueous acrylic polymer and aqueous acrylic polymer salts.

Use/Production. (G) Aqueous emulsion polymers. Prod. range: Confidential.

Y 91-10

Manufacturer. S.C. Johnson & Sons, Inc.

Chemical. (G) Aqueous acrylic polymer and aqueous acrylic polymer salts.

Use/Production. (G) Aqueous emulsion polymers. Prod. range: Confidential.

Y 91-11

Manufacturer. S.C. Johnson & Sons, Inc.

Chemical. (G) Aqueous acrylic polymer and aqueous acrylic polymer salts.

Use/Production. (G) Aqueous emulsion polymers. Prod. range: Confidential.

Y 91-12

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Epoxy ester.

Use/Production. (S) Coating resin intermediate. Prod. range: Confidential.

Y 91-13

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Styrene-acrylate copolymer with epoxy ester.

Use/Production. (S) Coating resin intermediate. Prod. range: Confidential.

Y 91-14

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Dimethylethanolamine salt of styrene-acrylate copolymer with epoxy ester.

Use/Production. (G) Industrial coatings. Prod. range: Confidential.

Y 91-15

Manufacturer. Confidential.

Chemical. (G) Polyester resin.

Use/Production. (G) An additive used in the plastics industry. Prod. range: Confidential.

Dated: October 18, 1990.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 90-25264 Filed 10-24-90; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

Comments Invited on Louisiana Regional Public Safety Plan

October 17, 1990.

The Commission has received the public safety radio communications plan for Louisiana (Region 18).

In accordance with the Commission's Report and Order in General Docket No. 87-112 implementing the Public Safety National Plan, parties are hereby given thirty days from the date of **Federal Register** publication of this public notice to file comments and fifteen days to reply to any comments filed. (See Report and Order, General Docket No. 87-112, 3 FCC Rcd 905 (1987), at pargraph 54.)

In accordance with the Commission's Memorandum Opinion and Order in General Docket No. 87-112, Region 18 consists of the State of Louisiana. General Docket No. 87-112, 3 FCC Rcd 2113 (1988).

Comments should be clearly identified as submissions to General Docket 90-498, Louisiana Area—Region 18, and commenters should send an original and five copies to the Secretary, Federal Communications Commission, Washington, DC 20554.

Questions regarding this public notice may be directed to Maureen Cesaitis, Private Radio Bureau, (202) 632-6497 or Fred Thomas, Office of Engineering and Technology, (202) 653-8112.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-25206 Filed 10-24-90; 8:45 am]

BILLING CODE 6712-01-M

Western Cities Broadcasting, Inc., et al.; Applications for Consolidated Hearing

1. The Commission has before it the following applications for renewal of license of Station KQKS(FM), Longmont, Colorado; for new FM stations at Longmont, Colorado; and for a license to cover minor changes to Station KQKS(FM), Longmont, Colorado:

Applicant	File No.	MM docket No.
A. Western Cities Broadcasting, Inc. (Renewal of KQKS(FM)); Longmont, CO. ..	BRH-891201XU	90-424
B. Amador S. Bustos (New FM Station), Longmont, CO..	BPH-900228MB	.....
C. Longmont Broadcasting Corporation (New FM Station); Longmont, CO..	BPH-900216MA	.....
D. Western Cities Broadcasting, Inc. (Minor Changes to KQKS(FM)); Longmont, CO..	BLH-890104KC	.....

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the following issues:

(a) If a final environmental impact statement is issued with respect to Bustos and/or LBC in which it is concluded that the proposed facilities are likely to have an adverse effect on the quality of the environment, to determine whether the proposals are consistent with the National Environmental Policy Act, as implemented by 47 CFR 1.1301-1319.

(b) To determine whether there is a reasonable possibility that the proposals of Bustos and LBC would constitute a hazard to air navigation.

(c) To determine whether Western committed a misrepresentation or was lacking in candor in its response to section I, Item 2, of its application (FCC Form 304) for a license to cover minor changes to KQKS(FM) and the effect(s) thereof on Western's qualifications to be a Commission licensee.

(d) If a final decision is rendered in the Montecito, California, proceeding (MM Docket No. 87-426), in which it is determined that Richard C. (Rick) Phalen was an undisclosed real party-in-interest in the application of his daughter, Shawn Phalen, to determine the effect(s) thereof on Western's qualifications to be a Commission licensee.

(e) To determine which of the captioned mutually exclusive applications for authority to operate on Channel 282C1 at Longmont, Colorado, would, on a comparative basis, best serve the public interest; and

(f) To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if any, of the captioned mutually exclusive applications to operate on Channel 282C1 at Longmont, Colorado, should be granted.

(g) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether the captioned application of Western for a license to cover minor changes to KQKS(FM) should be granted.

3. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC 20554. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc. 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 90–25275 Filed 10–24–90; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments 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. : 212–011234–011.

Title: U.S.A./South Europe Pool Agreement.

Parties:

Compania Trasatlantica Espanola, S.A.,
Costa Containter Lines, S.p.A.,
Evergreen Marine Corporation;
Italia di Navigazione S.p.A.,
Lykes Lines,
Nedlloyd Lines,
P&O Containers Limited,
Sea-Land Service, Inc.,
Zim Israel Navigation Company, Ltd.

Synopsis: The proposed amendment would add a new Article 5.C.6 which provides that the Pool Administrator shall periodically issue guidelines to the members to ensure that each member achieves its basic pool share. It would also provide that at least 60 days prior to the end of the pool period, the Pool Administrator shall issue adjusted guidelines to each member of each pool section. Additionally, the amendment provides that if a member adheres to the adjusted guidelines, the member would not be liable to pay any overcarriage penalty attributable to cargo carried in the final 30 days of the pool period.

Agreement No. : 232–011301.

Title: CSAV/TNE Reciprocal Space Charter and Coordinated Sailing Agreement.

Parties:

Compania Sud Americana De Vapores S.A.,
Transportes Navieros Ecuatorianos.

Synopsis: The proposed Agreement would permit the parties to consult and agree on sailing schedules, service frequency, ports to be served and port rotations in the trade between U.S. Gulf Coast ports and inland coastal points and ports and points in Mexico, Colombia, Panama, Ecuador, Peru and Chile, including Bolivian inland points. The Agreement would enable the parties to charter space to and from each other on their respective vessels or on vessels on which they have contracted for space. It would also enable the parties to interchange their empty containers, chassis and/or related equipment. In addition, the parties may also jointly contract with or coordinate in contracting with stevedores, terminals, ports and suppliers of equipment, land or services.

Agreement No. : 207–011302.

Title: DSR/Senator Joint Service Agreement.

Parties:

Deutsche Seereederei Rostock GmbH,
Senator Linie GmbH & Co., KG.

Synopsis: The proposed Agreement would authorize the parties to establish and operate a single-entity joint ocean common carrier service in the trades between ports and points in the United States and other countries, except in the trade between North Europe and ports and points in Puerto Rico and the U.S. Virgin Islands, as set forth in the scope of Agreement No. 207–011291, DSR/Stinnes West Indies Services Agreement.

By Order of the Federal Maritime Commission.

Dated: October 22, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90–25227 Filed 10–24–90; 8:45 am]

BILLING CODE 6730-01-M

[Fact Finding Investigation No. 19]

Passenger Vessel Financial Responsibility Requirements; Hearings

On August 17, 1990, the Federal Maritime Commission ("Commission" or "FMC") instituted the instant Fact Finding Investigation. The purpose of this proceeding is to collect and analyze information to establish a sound basis for review of current FMC regulations at 46 CFR part 540, subpart A, on the financial responsibility of passenger vessel operators.

The Investigation will address how the Commission may best implement its statutory authority and responsibility to fairly and adequately ensure the indemnification of the public in the event of nonperformance of a passenger vessel operator. It will obtain evidence concerning the financial transactions and operations relating to unearned passenger revenues. The Investigation will also study procedures and practices employed by passenger vessel operators to demonstrate to the FMC their financial responsibility, and alternative approaches and procedures which may meet the statutory objective of providing the passenger public security against nonperformance. This Fact Finding Investigation will also consider possible recommendations for legislative improvements to section 3 of Public Law 89–777.

In order to assist the Fact Finding Officer in the conduct of this Investigation, all parties listed in Appendix A hereto, and any other party interested in participating in this proceeding, shall submit written comments on the following specific issues:

1. The intent of Congress in enacting the financial responsibility requirements of section 3 of Public Law 89–777.

2. The levels of unearned passenger revenue collected and maintained by passenger vessel operators in the United States trades.

3. The advisability of using a sliding scale as a basis for establishing the amount of financial responsibility required.

4. Whether the FMC should continue to require that guarantors, insurers, and other persons providing evidence of financial responsibility on behalf of passenger vessel operators maintain sufficient assets in the United States to cover possible liability.

5. The costs incurred by passenger vessel operators in complying with the financial responsibility requirements for non-performance.

6. Whether the $15 million maximum of evidence of financial responsibility is adequate.

7. The effectiveness of the FMC's administration of the financial responsibility requirements to date. Suggestions for improving the adminstration of this program.

8. The number of claims for nonperformance you have received or made or have knowledge of during the past five yaears and the disposition of these claims.

9. The differences, if any, in financial statements and accounting standards between the United States and foreign countries that might impact upon the financial responsibility program administered by the FMC.

10. Suggested legislative improvements to section 3 of Public Law 89–777.

11. How passenger cruise operators utilize their unearned passenger revenue and whether and at what amounts these revenues earn interest.

12. Whether a central fund should be established to serve as the repository of all unearned passenger income.

13. Whether the FMC should establish a dollar-for-dollar coverage.

14. Any other areas concerning the administration or requirements of section 3 of Public Law 89–777 upon which you wish to comment.

Written submissions are to be submitted to Fact Finding Officer Commissioner Francis J. Ivancie, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573 on or before November 16, 1990 and served on the parties listed in Appendix A. Confidential financial information need not be served to the other participants of this proceeding, and may be submitted in a separate document. Replies and supplemental testimony may be offered at the oral hearings which will be held at the following locations:

Wednesday, December 5, 1990—New York, NY

Wednesday, December 12, 1990—Miami, FL

Wednesday, January 16, 1991—Los Angeles, CA

Persons wishing to offer testimony should notify the Fact Finding Officer, on or before November 16, 1990 indicating the regional hearing preferred.

Francis J. Ivancie,

Fact Finding Officer.

Fact Finding Investigation No. 19
Participants

1. The Peninsular and Oriental Steam Navigation Company of London, Princess Cruises, Inc. (P&O), Gibson, Dunn & Crutcher, 1050 Connecticut Avenue., NW., Washington, DC 20036–5303
2. American Hawaii Cruises (AHC), Graham & James, 2000 M Street, NW., suite 700, Washington, DC 20036
3. International Council of Cruise Lines, Mr. John T. Estes, 2300 N Street, NW., Washington, DC 20037
4. Royal Caribbean Cruises Ltd., Mr. Richard J. Glasier, Royal Caribbean Cruise Line and Admiral Cruises, 903 South America Way, Miami, FL 33132
5. Carnival Cruise Lines, Mr. Lawrence D. Winson, Carnival Cruise Lines, One Centrust Financial Center, 100 Southeast 2nd Street, 32nd Floor, Miami, FL 33131–2136
6. International Group of P & I Clubs, D.J.L. Watkins, International Group of P & I Clubs, 78 Fenchurch Street, London EC3M 4BT
7. First of America Bank-Southeast Michigan, N.A., Mr. Larry J. Zahra, The Travel Industry Group, First of America Bank—Southeast Michigan, N.A., 645 Griswold Street, Detroit, Michigan 48226
8. Security Pacific National Trust Co., Mr. Silvestro J. Diasparra, Security Pacific National Trust Co., P.O. Box 464, Bowling Green Station, New York, NY 10274–0464

[FR Doc. 90–25179 Filed 10–24–90; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Brooke Holdings, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

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

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected 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, summariz'ng the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than November 13, 1990.

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

1. *Brooke Holdings, Inc.*, Jewell, Kansas; to acquire Gypsum Valley Agency, Inc., Jewell, Kansas, and thereby engage in the sale of general insurance pursuant to § 225.25(b)(8)(vi) of the Board's Regulation Y.

B. **Federal Reserve Bank of San Francisco** (Kenneth R. Binning, Assistant Vice President) 101 Market Street, San Francisco, California 94105:

1. *U.S. Bancorp*, Portland, Oregon; to acquire Credco of Washington, Inc., Solana Beach, California, and thereby engage in selling credit reports on individuals to credit providers in connection with mortgage and consumer loan applications and providing related services to credit providers such as verification of certain credit report information pursuant to § 225.25(b)(24) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 18, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–25199 Filed 10–24–90; 8:45 am]

BILLING CODE 6210–01–M

Citicorp, 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 November 13, 1990.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York; to acquire 100 percent of the voting shares of De Anza Holding Corporation, Sunnyvale, California, and thereby indirectly acquire De Anza Bank, Sunnyvale, California.

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

1. *VB&T Bancshares Corp.*, Valdosta, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Valdosta Bank & Trust, Valdosta, Georgia.

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

1. *CommunitiFirst Bancorp, Inc.*, Chicago, Illinois; to become a bank holding company by acquiring 89.66 percent of the voting shares of Community Bank of Lawndale, Chicago, Illinois.

2. *Worthington Bancorporation*, Farley, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of State Bank of Worthington, Worthington, Iowa.

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

1. *Community Bankshares of Wyoming*, Guernsey, Wyoming; to become a bank holding company by acquiring 100 percent of the voting shares of Oregon Trail Bank, Guernsey, Wyoming.

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

1. *First Abilene Bankshares, Inc.*, Abilene, Texas; to acquire 100 percent of the voting shares of First National Bank in Cleburne, Cleburne, Texas.

Comments on this application must be received by November 7, 1990.

Board of Governors of the Federal Reserve System, October 18, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-25200 Filed 10-24-90; 8:45 am]

BILLING CODE 6210-01-M

Bank of North America Bancorp, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under § 3 of the Bank Holding Company Act (12 U.S.C. 1842) and 225.14 of the Board's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than November 9, 1990.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street N.W., Atlanta, Georgia 30303:

1. *Bank of North America Bancorp, Inc.*, Miami, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of North America, Miami, Florida.

Board of Governors of the Federal Reserve System, October 19, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-25201 Filed 10-25-90; 8:45 am]

BILLING CODE 6210-01-M

William Eugene Rowland, et al.; Change in Bank Control, Acquisitions 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 November 9, 1990.

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

1. *William Eugene Rowland, Robert Bell Murfree, and William Kent Coleman*, as trustees for the First City Bancorp, Inc., ESOP, all of Murfreesboro, Tennessee; to acquire up to 24.9 percent of the voting shares of First City Bancorp, Inc., Murfreesboro, Tennessee, and thereby indirectly acquire First City Bank, Murfreesboro, Tennessee.

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

1. *Mr. Larry Rolfstad, Mr. Marion M. Coons, and Mr. Dwight C. Vredenburg*, all of Carlisle, Iowa; to acquire 100 percent of the voting shares of Schooler Bancshares, Inc., Carlisle, Iowa, and thereby indirectly acquire Hartford Carlisle Bank, Carlisle, Iowa.

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

1. *Sidney William Cauthorn*, Del Rio, Texas; to acquire an additional 0.88 percent (for a total of 10.83 percent) of the voting shares of Westex Bancorp, Inc., Del Rio, Texas, and thereby indirectly acquire The First State Bank, Bracketville, Texas, Del Rio Bank & Trust Company, Del Rio, Texas, and Sutton County National Bank, Sonora, Texas.

Board of Governors of the Federal Reserve System, October 19, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-25202 Filed 10-24-90; 8:45 am]

BILLING CODE 6210-01-M

Joel I. Salk Revocable Trust, et al.; Change in Bank Control; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below § 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 November 7, 1990.

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

1. *Joel I. Salk Revocable Trust and Mildred J. Salk Revocable Trust*; to acquire 100 percent of the voting shares of First Eagle Bancshares, Inc., Roselle, Illinois, and thereby indirectly acquire First National Bank of Roselle, Roselle, Illinois.

2. *Joseph K. Simington*, Milford, Iowa; to acquire 100 percent of the voting shares of Fostoria Bankshares, Inc., Fostoria, Iowa, and thereby indirectly acquire Farmers Savings Bank, Fostoria, Iowa.

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

1. *Mike C. Daly*, Wheatland, Wyoming; to acquire an additional 1.72 percent of the voting shares of Wheatland Bankshares, Inc., Wheatland, Wyoming, for a total of 21.92 percent, and thereby indirectly acquire First State Bank of Wheatland, Wheatland, Wyoming.

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

1. *Pat S. Bolin*, Dallas, Texas, to acquire an additional 35.78 percent for a total of 39.45 percent; D. Phil Bolin, Wichita Falls, Texas, to acquire 17.89 percent for a total of 20.71 percent; Dan H. Bolin, M.D., Wichita Falls, Texas, to acquire 8.94 percent for a total of 9.63 percent; Warren T. Ayers, Wichita Falls, Texas, to acquire 8.94 percent for a total of 9.96 percent; and Eagle I, Wichita Falls, Texas, to retain 0.05 percent of the voting shares of Fidelity Resources Company, Dallas, Texas, and thereby indirectly acquire Fidelity National Bank, Dallas, Texas.

Board of Governors of the Federal Reserve System, October 18, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-25203 Filed 10-24-90; 8:45 am]

BILLING CODE 6210-01-M

Security Pacific Corporation, Los Angeles, CA; Request for Exemption From Tying Provisions

Security Pacific Corporation, Los Angeles, California ("Security Pacific"), has requested, pursuant to section 106 of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1971 *et seq.*) ("Section 106"), that the Board grant an exemption from the anti-tying provisions of section 106, in order to permit its wholly-owned subsidiary, Security Pacific Bank, National Association, Tempe, Arizona ("Security Pacific Bank"), which houses a centralized credit card operation for the consolidated bank holding company, to offer reduced rates on credit cards issued to customers with loans or deposit accounts at affiliated banks in California, Washington, Oregon, Alaska, Nevada and Arizona. The pricing of credit cards, a traditional bank loan product, is the only product pricing to be linked to products and services of affiliate banks, which include loans and deposit accounts that allow for automatic transfers to pay on credit card balances. In no case would the availability of the credit card be used to vary pricing of other bank services.

Although section 106 permits a bank to fix or to vary the consideration for extending credit or furnishing services on the condition that a customer also obtain a traditional banking service (loan, discount, deposit or trust service) from that bank, it prohibits a bank from engaging in these same activities on condition that a customer obtain any additional credit or services from any other subsidiary of the bank's parent holding company. The Board may grant, however, an exemption that is not contrary to the purposes of this provision.

Security Pacific, with consolidated assets of $94.5 billion as of June 30, 1990, ranked as the nation's fifth largest bank holding company in a comparative analysis based upon consolidated assets at yearend 1989. Security Pacific owns 12 commercial banks and one savings bank in ten states in the Western and Southwestern regions of the United States. Security Pacific also engages both directly and indirectly in a variety of permissible nonbanking activities. Security Pacific has recently undertaken to centralize all credit card operations in Security Pacific Bank by transfer of credit card receivables from affiliated banks in California, Washington, Oregon, Alaska, Nevada and Arizona. Security Pacific proposes that Security Pacific Bank provide reduced credit card rates to customers who have deposit or borrowing relationships with the affiliated banks. Inasmuch as the variation in consideration afforded by Security Pacific Bank under the reduced-rate credit card program would be conditioned upon a customer's obtaining additional banking services from other Security Pacific banking subsidiaries, it would be barred by the literal terms of Section 106 without an exemption from the Board.

In support of its request for an exemption, Security Pacific cites the Board's Order of June 20, 1990, approving requests by Northwest Corporation and NCNB Corporation for an exemption to permit their banks to offer a credit card at lower cost in conjunction with traditional banking services provided by their other subsidiary banks. In this connection, Security Pacific has also committed to conform such tying activity to any conditions and limitations determined appropriate by the Board upon completion of the rulemaking process which commenced with notice on June 20, 1990, of a proposed amendment to § 225.4(d) of the Board's Regulation Y (12 CFR 225.4(d)) to permit a bank owned by a bank holding company to vary the consideration (including interest rates and fees) charged in connection with extensions of credit pursuant to a credit card offered by the bank on the basis of the condition or requirement that a customer also obtain a traditional banking service from another bank subsidiary of the card-issuing bank's holding company. Further, assurance is provided that banking affiliates of Security Pacific Bank would offer the same deposit and loan products to customers who do not have a credit card issued by Security Pacific Bank.

Notice of the request is published solely in order to seek the views of interested persons on the issues presented by the request and does not represent determination by the Board that the request meets or is likely to

meet the standards of section 106. Any request for hearing on this issue must, as required by § 262.3(e) of the Board's Rule of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the request for exemption.

The request may be inspected at the offices of the Board of Governors. Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary of the Board of Governors of the Federal Reserve System, Washington, DC 20551 not later than November 23, 1990.

Board of Governors of the Federal Reserve System, October 19, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-25204 Filed 10-24-90; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Senior Executive Service Performance Review Board Membership

Summary Statement; Department of Health and Human Services

ACTION: Listing of members of this Department's Senior Executive Service Performance Review Boards.

DATES: Performance Review Boards effective November 13, 1990.

FOR FURTHER INFORMATION CONTACT: Renita E. Morse, 202: 245-6528.

Title 5, U.S. Code, section 4314(c)(4) of the Civil Service Reform Act of 1978, Public Law 95-454, requires that the appointment of Performance Review Board members be published in the Federal Register.

The following persons will serve on the Performance Review Boards or Panels which oversee the evaluation of performance appraisals of Senior Executive Service members of the Department of Health and Human Services:

Richard H. Adamson, Ph.D.
Ann C. Agnew
Duane F. Alexander, M.D.
Joseph R. Antos, Ph.D.
Michele W. Applegate
William H. Aspden, Jr.
Michael J. Astrue
Paul D. Barnes
James S. Benson
Joyce T. Berry, Ph.D.
Annette H. Blum
Samuel Broder, M.D.
Kathleen A. Buto
Robin Carle
Ronald H. Carlson
Bruce A. Chabner, M.D.
Philip S. Chen, Jr., Ph.D.
Andria T. Childs
Pamela A. Coughlin
Glenda S. Cowart
Don J. Davis
Beverly Dennis, III
John W. Diggs, Ph.D.
Walter R. Dowdle, Ph.D.
Robert G. Eaton
Joyce D. Essien, M.D.
Anthony S. Fauci, M.D.
Dennis J. Fischer
Gail F. Fisher, Ph.D.
Gil Fisher
William T. Fitzsimmons
Margaret Foertschbeck
Richard K. Fuller, M.D.
Barbara J. Gagel
George J. Galasso, Ph.D.
John I. Gallin, M.D.
Donna N. Givens
Murray Goldstein, M.D.
Phillip Gorden, M.D.
Alexander R. Grant
Jerome C. Green, M.D.
Joseph A. Gribbin
Gerald B. Guest, D.V.M.
George E. Hardy, Jr., M.D.
Louis B. Hays
Michael Heningburg
Alan R. Hinman, M.D.
Ada Sue Hinshaw, Ph.D.
George R. Holland
Sharon Smith Holston
Robert A. Israel
Barry L. Johnson, Ph.D.
Elaine M. Johnson, Ph.D.
Martha F. Katz
John H. Kelso
Eugene Kinlow
Ruth L. Karschstein, M.D.
Irwin J. Kopin, Ph.D.
Edward D. Korn, Ph.D.
Carl Kupfer, M.D.
Richard P. Kusserow
Claude J. Lenfant, M.D.
Joseph R. Leone
Alan I. Leshner, Ph.D.
Arthur S. Levine, M.D.
Joseph A. Levitt
Huldah Lieberman
Donald A. B. Lindberg, M.D.
Harald A. Loe, D.D.S.
Laurence J. Love
John D. Mahoney
Thomas E. Malone, Ph.D.
Dorothy H. Mann, M.P.H.
Norman D. Mansfield
George Martin, M.D.
Thomas S. McFee
John McLachlan, Ph.D.
Henry Metzger
Kevin E. Moley
Larry D. Morey
Jay Moskowitz, Ph.D.
Clennie H. Murphy, Jr.
Frederick A. Murphy, Ph.D.
Stuart L. Nightingale
Abner L. Notkins, M.D.
Kenneth Olden, Ph.D.
Steven Paul, M.D.
Carl C. Peck, M.D.
Roy W. Pickens, Ph.D.
Alan S. Rabson, M.D.
Joseph E. Rall, M.D.
Juan Ramos, Ph.D.
William F. Raub, Ph.D.
Luana L. Reyes
William A. Robinson, M.D.
Saul W. Rosen, M.D.
Mary E. Ross
Philip E. Schambra, Ph.D.
Matthew G. Schwienteck
Lawrence E. Shulman, M.D.
Maxime Singer, Ph.D.
Robert Singyke
James B. Snow, Jr., M.D.
Dale W. Sopper
Joan F.M. Steward
Robert E. Stovenour
Robert A. Streimer
Boris Tabakoff, Ph.D.
Stephen B. Thacker, M.D.
Robert L. Trachtenberg
Margaret A. VanAmringe
James A. Walsh
S. Timothy Wapato
Kenneth R. Warren, Ph.D.
Rueben C. Warren, Ph.D.
Williams E. Wead
John C. West
Storm H. Whaley
Daniel F. Whiteside, D.D.S.
Robert A. Whitney, Ph.D.
T. Franklin Williams, M.D.
Luther Williams, Ph.D.

Dated: October 18, 1990.

Eugene Kinlow,

Acting Assistant Secretary for Personnel Administration.

[FR Doc. 90-25221 Filed 10-24-90; 8:45 am]

BILLING CODE 4140-01-M

Health Resources and Services Administration

Final Funding Priorities for Grants for Area Health Education Centers Special Initiatives

The Health Resources and Services Administration (HRSA) announces the final funding priorities for fiscal year (FY) 1991 for Grants for Area Health Education Centers Special Initiatives under the authority of section 781(a)(2) of the Public Health Service (PHS) Act, extended by the Health Professions Reauthorization Act of 1988, Pub. L. 100-607, title VI.

Section 781(a)(2) authorizes Federal Assistance to medical and osteopathic schools which have previously received Federal financial assistance for the Area Health Education Centers (AHEC) program under either section 802 of Pub. L. 94-484 in FY 1979 or under section 781. In addition, section 781(a)(2) authorizes medical and osteopathic schools currently receiving Federal support for an AHEC program to apply for project aid on behalf of an Area

Health Education Center that is no longer federally-funded as part of that program.

Section 781(a)(2) applications will be for the purpose of improving the distribution, supply, quality, utilization, and efficiency of health personnel in the health services delivery system; to encourage regionalization of educational responsibility of the health professions schools; or to prepare, through preceptorships and other programs, individuals subject to a service obligation under the National Health Service Corps Scholarship program to provide effective health services in health manpower shortage areas.

To receive support, programs must meet the requirements of regulations set forth in 42 CFR part 57, subpart MM.

Review Criteria

The review of applications will take into consideration the following criteria:

1. The relative merit of the proposed project; and

2. The relative cost-efficiency of the proposed project.

In addition,the following mechanisms will be applied in determining the funding of approved applications.

1. Funding preferences—funding of a specific category or group of approved applications ahead of other categories or groups of applications, such as competing continuations ahead of new projects.

2. Funding priorities—favorable adjustment of review scores when applications meet specified objective criteria.

The following funding preference and priorities were established in FY 1988 after public comment and the Administration is extending this preference and these priorities in FY 1991.

Funding Preference for Fiscal Year 1991

In making awards under section 781 for fiscal year 1991, a funding preference will be given to approved competing continuation applications as authorized by section 781(a)(1).

Funding Priorities for Fiscal Year 1991

In determining the order of funding of approved applications funding priorities will be given to the following:

1. Applications proposing to develop, expand or implement curricula concerning ambulatory and inpatient case management of needs of persons with HIV/AIDS infection.

2. Applications demonstrating a commitment to geriatrics through development of innovative educational ways to provide improved and more effective care for the elderly.

3. Applications which are innovative in their educational approaches to quality assurance/risk management activities: monitoring and evaluation of health care services and utilization of peer-developed guidelines and standards.

Proposed additional funding priorities were published in the Federal Register of August 31, 1990 (55 FR 35725) for public comment. No comments were received during the 30-day comment period. Therefore, as proposed, the following funding priorities will be retained as listed below. Additional funding priorities will be given to:

1. Applications proposing centers in which substantial training experience is in a Health Manpower Shortage Area, section 332 of the PHS Act; and/or Migrant Health Center, section 329 of the PHS Act; Community Health Center, section 330 of the PHS Act; or State designated clinic-center serving an underserved population.

2. Applications proposing centers that will serve Health Manpower Shortage Areas with a greater proportion of American Indian/Alaskan Natives, Asians/Pacific Islanders, Blacks and/or Hispanics than exists in the general population in the United States.

3. Applications demonstrating a commitment to reducing infant mortality through the development of innovative educational ways to provide improved and more effective maternal and child health care: For example, the development and implementation of undergraduate, graduate and/or continuing education curricula/courses to enhance the delivery of maternal and child health care to low-income populations; or the provision of clinical training experiences to undergraduate students or residents in areas where the infant mortality rate is higher than the State or national average.

FOR FURTHER INFORMATION: Please contact: Division of Medicine, Multidisciplinary Centers and Programs Branch, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, room 4C-05, Rockville, Maryland 20857, Telephone: (301) 443-6950.

The *Catalog of Federal Domestic Assistance* number assigned to this program has been changed from 13.824 to 93.824. This program is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100.

Dated: October 19, 1990.

Robert G. Harmon,

Administrator.

[FR Doc. 90-25207 Filed 10-24-90; 8:45 am]

BILLING CODE 4160-15-M

Public Health Service

National Toxicology Program; Availability of Technical Report on Toxicology and Carcinogensis Studies of Furfural

The HHS' National Toxicology Program announces the availability of the NTP Technical Report on toxicology and carcinogenesis studies of furfural, used for the production of furan, furfuryl alcohol, tetrahydrofuran, and their derivatives; as a solvent for selectively separating saturated from unsaturated compounds in petroleum lubricating oil, gas oil, and diesel fuel; in the extractive distillation of butadiene and other C4 hydrocarbons used in the manufacture of synthetic rubber; as a resin solvent and wetting agent in the manufacture of abrasive wheels and authomobile brake linings; and as a solvent in various other industrial processes.

Toxicology and carcinogenesis studies of furfural were conducted by administering 0, 30, or 60 mg/kg furfural in corn oil by gavage to groups of 50 rats of each sex, 5 days per week for 103 weeks. Groups of 50 mice of each sex were administered 0, 50, 100, or 175 mg/kg on the same schedule.

Under the conditions of these 2-year gavage studies, there was some evidence of carcinogenic activity* of furfural for male F344/N rats, based on the occurrence of uncommon cholangiocarcinomas in two animals and bile duct dysplasia with fibrosis in two other animals. There was no evidence of carcinogenic activity for femal F344/N rats that received doses of 0, 30, or 60 mg/kg furfural. There was clear evidence of carcinogenic activity for male B6C3F1 mice, based on increased incidences of hepatocellular adenomas and hepatocellular carcinomas. There was some evidence of carcinogenic activity in female B6C3F1 mice, based on increased incidences of hepatocellular adenomas. Renal cortical adenomas or carcinomas in male mice and squamous cell

* The NTP uses five categories of evidence of carcinogenic activity to summarize the strength of the evidence observed in each experiment: Two categories of positive results ("clear evidence" and "some evidence"); one category for uncertain findings ("equivocal evidence"); one category for no observable effects ("no evidence"); one category for experiments that because of major flaws cannot be evaluated ("inadequate study").

papillomas of the forestomach in female mice may have been related to exposure to furfural.

The study scientist for these studies is Dr. Richard Irwin. Questions or comments about this Technical Report should be directed to Dr. Irwin at P.O. Box 12233, Research Triangle Park, NC 27709 or telephone (919) 541–3340.

Copies of Toxicology and Carcinogenesis Studies of Furfural in F344N Rats and B6C3F1 Mice (Gavage Studies) (TR 382) are available from the NTP Public Information Office, MD B2–04, P.O. Box 12233, Research Triangle Park, NC 27709.

Dated: October 18, 1990.

David G. Hoel,

Acting Director, National Toxicology Program.

[FR Doc. 90–25197 Filed 10–24–90; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N–90–3163; FR–2812–N–01]

National Manufactured Home Advisory Council—Request for Nominations

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This Notice gives the public an opportunity to nominate persons for appointments to the National Manufactured Home Advisory Council. The Council, consisting of representatives from consumer, government and industry organizations or agencies, is consulted to the extent feasible before the Department establishes, amends, or revokes manufactured home construction and safety standards.

DATES: Persons wishing to submit nominations must do so on or before November 26, 1990.

FOR FURTHER INFORMATION CONTACT: Henry Omson, Coordinator, National Manufactured Home Council, Office of Manufactured Housing and Regulatory Functions, Office of Single Family Housing, Department of Housing and Urban Development, 451 7th Street, SW., room 6270, Washington, DC 20410, Telephone: (202) 708–0798. The TDD number is (202) 708–4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Notice is hereby given that members of the public wishing to nominate persons for appointment to the National Manufactured Home Advisory Council should submit such nominations in writing to the Assistant Secretary for Housing—Federal Housing Commissioner (Attention: Officer of Manufactured Housing and Regulatory Functions), Department of Housing and Urban Development, 451 7th Street, SW., room 6270, Washington, DC 20410.

A twenty-four member Council was created under the National Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 *et. seq.* (The Act) to provide the Department with an opportunity to obtain balanced views on manufactured home standards issues. The Act stipulates that one-third of the membership of the Council must be chosen from each of the following categories: (a) Consumer organizations and recognized consumer leaders; (b) the manufactured home industry and related groups, including at least one representative of small business; and (c) government agencies including Federal, State and local governments.

Section 6(a) of the National Manufactured Home Advisory Council Charter stipulates that the Council members shall be appointed by the Secretary to serve two-year terms. In accordance with the Charter, one-half of these terms will expire on August 21, 1991 and the other half will expire on August 21, 1992.

Because the Advisory Council has not met in the past two years, all positions on the Council are vacant. The Secretary will appoint one-half of the Council for a one-year term which will expire on August 21, 1991 and the other half of the Council to a two-year term which will expire on August 21, 1992.

The Secretary will appoint a total of twenty-four (24) new members to the Council, selecting eight (8) members from each of the three groups which make up the Council. Nominations may be made for representatives of consumer, industry and government organizations or agencies. Interested persons may nominate themselves.

In submitting nominations, include the following information:

1. Name of nominee.
2. Home address and telephone number of nominee.
3. Business address and telephone number of nominee.
4. Section (i.e. consumer, industry, or government) the nominee represents.
5. Pertinent experience and/or background of nominee that is believed will qualify the nominee as an appropriate member of the Council.
6. Name of group or person(s) making nomination.
7. The following data should be furnished for those nominated as official representatives of organized consumer or industrial groups or associations:
   (a) Name and address of organizations.
   (b) Number of official members in organization.
   (c) Nominee's position in organization.
8. The name of the government agency, its location, and the nominee's position or title should be provided for those nominated to represent government agencies.
9. Any other pertinent comments or remarks.

The nominees selected by the Secretary are expected to be announced by publication in the Federal Register.

Dated: October 17, 1990.

Arthur J. Hill,

Acting, Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 90–25183 Filed 10–24–90; 8:45 am]

BILLING CODE 4210–01–M

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–90–3164; FR–2919–N–01]

Neighborhood Development Demonstration Program; Announcement of Funding Awards, Iron Mountain/Ozan Inghram NDC, et al.

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of funding awards.

SUMMARY: Under section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Neighborhood Development Demonstration Program. This announcement contains the names and addresses of the award winners and the amounts of the awards.

EFFECTIVE DATE: October 25, 1990.

FOR FURTHER INFORMATION CONTACT: Samuel Jones, Office of Procurement and Contracts, Community Services Division (ACC–SJ), Department of Housing and Urban Development, room 5252, 451 Seventh Street, SW., Washington, DC 20410. Telephone number (202) 708–1162. A telecommunications device for deaf persons (TDD) is available at (202) 708–2565. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The Neighborhood Development Demonstration Program (NDDP) was

authorized under section 123 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318). The purpose of the program is to determine the ability of neighborhood organizations to support eligible neighborhood development activities using cooperative efforts and monetary contributions from individuals, businesses, and nonprofit and other organizations located within established neighborhood boundaries

On March 14, 1990 (55 FR 9612) HUD announced in the **Federal Register** the availability of $1.85 million in NDDP funds for grants.

The application deadline was May 15, 1990. A total of $1.85 million was awarded to thirty-nine organizations which are located in twenty states and Puerto Rico. In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, the Department is publishing the names, addresses, and amounts of those awards, as follows:

Neighborhood Development Demonstration Program Grantees

1. Iron Mountain/Ozan Inghram NDC, 1101 Couch St., Texarkana, AR 75502, Mr. Freddie L. Johnson, $50,000
2. S. Berkeley Neigh. Dev. Corp., 1767 Alcatraz Ave., Berkeley, CA 94703, Ms. Barbara Sanders, $50,000
3. El Pajaro Comm. Dev. Corp., 420 Main St., Ste 313, Watsonville, CA 95076, Ms. Pamela Salsedo, $50,000
4. Southern Ute Comm. Action, P.O. Box 800, Ignacio, CO 81137, Mr. Harry N. Pearson, $50,000
5. Quality Living Services, Inc., P.O. Box 311045, Atlanta, GA 30331, Ms. Irene M. Richardson, $50,000
6. Uptown Chicago Commission, 4753 N. Broadway, Chicago, IL 60640, Ms. Patricia A. Reskey, $50,000
7. Rockford Neigh. Dev. Corp., 318 N. Church St., Rockford, IL 61101, Mr. R. Haines Moffat, $50,000
8. East Central Reinvest Corp., 615 East Washington St., Muncie, IN 47305, Ms. Lynn K. Thornburg, $50,000
9. Acorn Housing Corp., Inc., 808 N First St., Phoenix, AZ 85004, Mr. Martin Shalloo, $50,000
10. Charity Cultural Services Ctr., 827 Stockton St., San Francisco, CA 94108, Ms. Yvonne Badger, $50,000
11. North East Denver Housing, 1735 Gaylord, Denver, CO 80206, Ms. Getabecha Mekonnen, $50,000
12. Latin American Youth Center, 3045 15th St., NW., Washington, DC 20009, Ms. Lori M. Kaplan, $30,000
13. Cabbagetown Revitalization, 230 Carroll St., SE., Atlanta, GA 30312, Ms. Peggy P. Williams, $50,000
14. East Bluff Neigh. Hsg. Ser., 413 E. Illinois, Peoria, IL 61603, Ms. Paula J. Day, $50,000
15. Eastside Comm Invests., Inc., 3228 E. Tenth St., Indianapolis, IN 40201, Mr. Dennis J. West, $50,000
16. Nueva Esperanza, Inc., 562 South Summer St., Holyoke, MA 01040, Ms. Kathryn Kroll, $50,000
17. Oakhill Comm. Dev. Corp., 17 Wall St., Worcester, MA 01604, Mr. Franklin D. Mathews, $21,278
18. Pinelake Village Coop., Inc., 2680 Adrienne Drive, Ann Arbor, MI 48103, Mr. David Friedrichs, $50,000
19. Phillips Community Dev. Corp., 1931 Thirteenth Ave. South, Minneapolis, MN 55404, Mr. Ron Otterson, $35,000
20. Mt. Hope Hous. Co., Inc., 1892 Morris Ave., Bronx, NY 10452, Mr. Brien O'Toole, $50,000
21. Church Ave. Merchants Assn., 1720 Church Ave., Brooklyn, NY 11226, Ms. Joanne Oplustil, $50,000
22. St. Nicholas Neigh. Pres. Corp., 11–29 Catherine St., Brooklyn, NY 11211, Mr. Joel E. Patenaude, $50,000
23. Walnut Hills Redev. Found., Inc., 2601 Melrose Ave., Cincinnati, OH 45206, Ms. Daphne A. Sloan, $50,000
24. Clark-Metro Dev. Corp., 3310 Clark Ave., Cleveland, OH 44109, Ms. Betty J. Sitka, $50,000
25. SE Comm. Dev. Org., Inc., Ten South Wolfe St., Baltimore, MD 21231, Mr. Robert P. Giloth, $50,000
26. West Bank CDC, Inc., 2000 S. 5th St., Minneapolis, MN 55454, Mr. George A. Garnett, $25,000
27. Banana Kelly Comm Inprov Assn, 965 Longwood Avenue, Brooklyn, NY 11208, Mr. Getz Obstfeld, $49,875
28. Cypress Hills Local Dev. Corp., 3152 Fulton St., Brooklyn, NY 10459, Ms. Angela Surace Curci, $44,000
29. Mutual Housing Assn. of NY, 845 Flathbush Ave., Brooklyn, NY 11226, Mr. Peter Wood, $50,000
30. Clinton Comm. Ser., Inc., 441 West 49th St., New York, NY 10019, Ms. Mary Clark, $50,000
31. Cudell Improvement, Inc., 11311 Franklin Blvd., Cleveland, OH 44102, Ms. Carol Johnson, $50,000
32. Edgemont Neigh. Coal., Inc., 1199 Wildwood Ave., Dayton, OH 45408, Mr. Dean Lovelace, $50,000
33. 4500 N. 20th Block Assn. Corp., 4541 N. 20th St., Philadelphia, PA 19140, Ms. Delores Dennison, $50,000
34. Kensington Action Now, 3034 Frankford Ave., Philadelphia, PA 19134, Ms. Deborah Fischetti, $50,000
35. Servicio De Viviendas, P.O. Box 887, Pueblo Station, Carolina, PR 00630, Mr. José Gaztambide, $50,000
36. South Community Org., Inc., 2201 S. 7th St., Milwaukee, WI 53215, Ms. Karen M. Schaber, $50,000
37. K.J.A.C., 1818 E. Huntingdon St., Philadelphia, PA 19125, Mr. Bill Lenahan, $47,500
38. Central Germantown Council, 5800 Germantown Ave., Philadelphia, PA 19144, Mr. Donald P. Scott, $36,000
39. NW Neigh. Environment Org., 802 Loudon Ave., NW., Roanoke, VA 24016, Ms. Florine Thornhill, $50,000.

Dated: October 17, 1990.

S. Anna Kondratas,

Assistant Secretary for Community Planning and Development.

[FR Doc. 90-25182 Filed 10-24-90; 8:45 am]

BILLING CODE 4210-29-M

[Docket No. D-90-933]

Office of the Regional Administrator, Regional Housing Commissioner, Fort Worth Regional Office, Region VI (Fort Worth); Designation

AGENCY: Department of Housing and Urban Development.

ACTION: Designation of order of succession.

SUMMARY: The Regional Administrator—Regional Housing Commissioner is designating officials who may serve as Acting Regional Administrator—Regional Housing Commissioner during the absence, disability, or vacancy in the position of the Regional Administrator—Regional Housing Commissioner.

EFFECTIVE DATE: This designation is effective October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Rita M. Vinson, Director, Management and Budget Division, Office of Administration, Fort Worth Regional Office, Department of Housing and Urban Development, 1600 Throckmorton, P.O. Box 2905, Fort Worth, Texas 76113–2905, Telephone (817) 885–5451 (this is not a toll-free number).

DESIGNATION: Each of the officials appointed to the following positions is designated to serve as Acting Regional Administrator—Regional Housing Commissioner during the absence, disability, or vacancy in the position of the Regional Administrator—Regional Housing Commissioner with all the powers, functions, and duties redelegated or assigned to the Regional Administrator—Regional Housing Commissioner: Provided that no official is authorized to serve as Acting Regional Administrator unless all preceding listed officials in this designation are unavailable to act by reason of absence, disability, or vacancy in the position:

1. Deputy Regional Administrator
2. Regional Counsel
3. Director, Office of Community Planning and Development
4. Director, Office of Housing
5. Director, Office of Administration
6. Director, Office of Fair Housing and Equal Opportunity
7. Director, Office of Public Housing

This designation supersedes the designation effective October 8, 1986, published as Docket No. D–86–824 in the **Federal Register** issue of November 6, 1988 (51 FR 40356).

Authority: Delegation of Authority by the Secretary effective May 4, 1962, (27 FR 4319, May 4, 1962); Department Interim Order II (31 FR 815, January 21, 1966.

Sam R. Moseley,

Regional Administrator—Regional Housing Commissioner, Region VI (Fort Worth).

[FR Doc. 90–25184 Filed 10–24–90; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–060–4333–11]

Notice of Participation in a Block Management Program, Valley Resource Area, Lewistown District, Montana

October 19, 1990.

AGENCY: Bureau of Land Management, Interior.

ACTION: Cooperation in a block management program which would temporarily change off-road vehicle designations in the area.

SUMMARY: Notice is hereby given that effective immediately all public lands in the following description will be managed in a cooperative block management program among the Montana Department of Fish, Wildlife, and Parks, the Page-Whitham Ranches of South Valley County and the BLM throughout the 1990 Montana big game hunting season.

Legal Description of Public Lands within the Block:

T. 25 N., R. 34 E.,
Sec. 26, 27, 34, 35, and 36.
T. 25 N., R. 35E.,
Sec. 28, 29, 31, 32, 33, and 34.
T. 24 N., R. 34 E.,
Sec. 1, 2, 11, 12, 13, 14, and 24.
T. 24 N., R. 35 E.,
Sec. 1–15, 17, 18, 19, 20, 23, 24, 25, 26, 27, 28, 29, 33, 34 and 35.
T. 24 N., R. 36 E.,
Sec. 5, 6, 7, 8, 17, 18, 30, and 31.
T. 23 N., R. 35 E.,
Sec. 1, 2, 3, 10, 11, 14, 15, 22, 23, 26, 27, and 28.

DATES: Public land restrictions within the block will coincide with the Montana big game hunting season, October 21, through November 25.

SUPPLEMENTARY INFORMATION: Hunting or other forms of recreation will be subject to the following regulations; no off-road vehicle travel, no open fires; and recreationists may obtain additional information from the Montana Department of Fish, Wildlife & Parks or Bureau of Land Management offices in Glasgow.

Authority for this participation is 43 CFR part 8342.

FOR FURTHER INFORMATION CONTACT: Terry Hueth, Valley Resource Area Manager, Route 1 Box 775, Glasgow, MT 59230.

B. Gene Miller,

Acting District Manager.

[FR Doc. 90–25242 Filed 10–24–90; 8:45 am]

BILLING CODE 4310–ON–M

[WY–060–D1–4410–08]

Notice of Availability of Draft Environmental Impact Statement for Nebraska Resource Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of the Draft Environmental Impact Statement for the Nebraska Resource Management Plan.

SUMMARY: The Bureau of Land Management (BLM) has completed the Nebraska Resource Management Plan/draft Environmental Impact Statement (RMP/draft EIS). The BLM's preferred alternative in the RMP/draft EIS proposes land and resource uses, and identifies management goals, constraints, and general management practices needed to manage the public lands in Nebraska. It also contains proposed off-road vehicle (ORV) designations for all BLM administered land surface. The term "public lands" means federally-owned land surface and federally-owned minerals administered by the BLM.

When completed the Nebraska RMP will guide management of the public lands administered by BLM in the State of Nebraska.

DATES: Written comments will be accepted for 90 days following the date the Environmental Protection Agency publishes the filing of the Nebraska RMP/draft EIS in the **Federal Register.**

ADDRESSES: Copies of the Nebraska RMP/draft EIS are available from the Newcastle Resource Area Office at 1101 Washington Blvd., Newcastle, Wyoming 82701, or the Casper District Office at 1701 East E Street, Casper, Wyoming 82601. Comments should be sent to the Newcastle Area Manager at the Newcastle Resource Area Office.

FOR FURTHER INFORMATION CONTACT: Floyd Ewing, Newcastle Area Manager, at the above address or telephone (307) 746–4453.

SUPPLEMENTARY INFORMATION: The Newcastle Resource Area of the Bureau of Land Management has the responsibility of managing all BLM administered public lands in Nebraska. BLM administered public land surface (about 6,700 acres) is found in 30 of the 93 counties in Nebraska, with parcels ranging in size from less than one acre to 240 acres. The majority of this public land surface is located in the western part of the state. Some of the BLM administered Federal minerals lie beneath the BLM administered public lands. However, most of the Federal minerals lie beneath land surface in private ownership or owned by the State of Nebraska (about 240,000 acres) or federally-owned land surface that is managed by other Federal agencies. The planning effort will not address the Federal mineral estate under those Federal lands administered by other Federal agencies (about 260,000 acres) or those withdrawn for purposes of other agencies (about 81,000 acres).

After the public comment period closes all comments received will be addressed in a final EIS. The final EIS will also be made available to the public and will be subject to a 30 day protest period before any planning decisions are made.

Dated: October 18, 1990.

Ray Brubaker,

State Director, Wyoming.

[FR Doc. 90–25234 Filed 10–24–90; 8:45 am]

BILLING CODE 4310–22–M

[G010–4333–02/G1–0100]

Albuquerque District, New Mexico; District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Albuquerque District Advisory Council Meeting.

SUMMARY: The BLM Albuquerque District Advisory Council will meet on November 19, 1990 in the Albuquerque District Office conference room from 10 a.m. until 3:30 p.m. The office is located at 435 Montano NE, Albuquerque, New Mexico. Topics on the agenda include a discussion of how to involve the Council in the preparation of the Rio Grande Corridor Plan, and a discussion of the District-Wide Resource Management Plan Amendment process to look at the cumulative impacts of oil and gas development activity. Also on the agenda will be an update for the Council of major activities on the District.

The meeting is open to the public. Individuals wishing to address the Council are urged to contact Alan Hoffmeister, Public Affairs Specialist, at (505) 761–4513, Bureau of Land

Management, 435 Montana NE. Albuquerque, NM 87107.

Robert T. Dale,

District Manager.

[FR Doc. 90-25232 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-FB-M

[NV-030-91-4830-02-24-1A]

Meetings; Carson City District Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting of the Carson City District Advisory Council.

DATES: November 29, 1990.

ADDRESSES: 1535 Hot Springs Road, suite 300, Carson City, Nevada.

SUMMARY: The Council will meet at 9:30 a.m. The agenda will include the following:

1. Minutes from the last meeting.
2. Proposed wild horse and burro gathers for Fiscal Year 1991.
3. Briefing on the Marietta Burro Range designation and proposed dedication ceremony.
4. Briefing on the Stewart Valley Management Plan.
5. Update on the Walker Lake recreation complex.
6. Current status of public land closures adjacent to Navy Bombing Ranges B-16, B-17 and B-19.
7. Law enforcement activities during Fiscal Year 1990.

At 11:30 a.m., comments from the public will be heard.

FOR FURTHER INFORMATION CONTACT: Chuck Pope, BLM Public Affairs Officer, 1535 Hot Springs Road, suite 300, Carson City, Nevada 89706-0638. (Phone: (702) 885-6000).

Dated this 18th day of October 1990.

James W. Elliott,

District Manager, Carson City District.

[FR Doc. 90-25118 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-HC-M

[Alaska AA-68130-K]

Proposed Reinstatement of a Terminated Oil and Gas Lease

In accordance with title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease AA-68130-K has been received covering the following lands:

Kateel River Meridian, Alaska

T. 6 S., R. 9 W.,
Sec. 19, SE¼ SE¼.
(40 acres)

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $5 per acre per year, and royalty increased to 16⅔ percent. The $500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accruing from June 1, 1990, the date of termination have been paid.

Having met all the requirements for reinstatement of lease AA-68130-K as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective June 1, 1990. subject to the terms and conditions cited above.

Dated: October 11, 1990.

Ruth Stockie,

Chief, Branch of Mineral Adjudication.

[FR Doc. 90-25235 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-JA-M

[Alaska AA-68306-AI, AA-68306-AJ, AA-68307-I]

Proposed Reinstatement of Terminated Oil and Gas Leases

In accordance with title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas leases AA-68306-AI, AA-68306-AJ, and AA-68307-I has been received covering the following lands:

Kateel River Meridian, Alaska

T. 5 S., R. 5 W.,
Sec. 5, N2NW; (80 acres)
Sec. 8, S2SW; (80 acres)
Sec. 20, N2NW; (80 acres)

The proposed reinstatement of the leases would be under the same terms and conditions of the original leases, except the rental will be increased to $5 per acre per year, and royalty increased to 16⅔ percent. The $1,500 administrative fees and the cost of publishing this Notice have been paid. The required rentals and royalties accruing from July 1, 1990, the date of termination have been paid.

Having met all the requirements for reinstatement of leases AA-68306-AI, AA-68306-AJ, and AA-68307-I as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate these leases, effective June 1, 1990, subject to the terms and conditions cited above.

Dated: October 11, 1990.

Ruth Stockie,

Chief, Branch of Mineral Adjudication.

[FR Doc. 90-25236 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-JA-M

[A-010-4212-11; AZA-24827]

Arizona Strip District; Realty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: (1) The following described 10 acres of public land has been determined to be suitable for disposal by sale to Mohave County, Arizona, under provisions of section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713):

Gila & Salt River Meridian, Mohave County, Arizona

T. 41 N., R. 15 W.,
Sec. 33, NE¼SW¼NE¼, 10 acres.

Disposal of this tract will serve important public objectives that cannot be prudently achieved on other public lands or by maintaining it in public ownership.

(2) Under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 8694) the following described public land is hereby classified as suitable for conveyance or lease:

Gila & Salt River Meridian, Mohave County, Arizona

T. 41 N., R. 15 W.,
Sec. 33, Lots 4 and 5, NW¼SW¼NE¼, S½ SW¼NE¼, SE¼SW¼, NW¼SE¼, N½ SW¼SE¼, SE¼SW¼SE¼, 199.53 acres.

This notice shall segregate the land described in both items (1) and (2) above from appropriation under other public land laws and the mining laws. The segregation of the land for sale in item (1) will terminate upon sale or 270 days after publication of this notice in the **Federal Register**. The segregation of the land for recreation and public purposes described in item (2) will terminate on lease or sale or in 18 months from publication of this notice in the **Federal Register**.

For a period of 45 days from the date of publication in the **Federal Register** interested parties may submit comments to the District Manager, Bureau of Land Management, 390 North 3050 East, St. George, UT 84770. In the absence of any objections the decision to approve this realty action will become the final determination of the Department of the Interior.

Dated: October 11, 1990.

Raymond D. Mapston,

Acting District Manager.

[FR Doc. 90-25243 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-32-M

INTERIOR DEPARTMENT

Realty Action; Exchange; California

REALTY ACTION: Exchange of Public Lands; Modoc County, CA.

AGENCY: Bureau of Land Management, Department of Interior.

ACTION: CACA 26721; California Realty Action, exchange of public lands in Modoc County, California.

SUMMARY: The following described public lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

Mount Diablo Meridian, California

T. 44 N., R. 14 E.
Sec. 31: Lot 4, SE¼SW¼
Sec. 32: N½SW¼, E½SE¼, SE¼SE¼
T. 43 N., R. 14 E.
Sec. 4: Lot 4, SW¼NW¼
Sec. 5: Lot 1, Lot 2, Lot 3, SW¼NE¼, SE¼ NW¼
T. 43 N., R. 13 E.
Sec. 19: Lot 4, SE¼SW¼, SW¼SE¼
Sec. 29: NW¼SW¼
Sec. 30: Lot 1, Lot 2, Lot 3, E½NE¼, NW¼ NE¼, NE¼NW¼, NE¼SE¼
T. 43 N., R. 12 E.
Sec. 35: NE¼NE¼
T. 42 N., R. 14 E.
Sec. 9: SW¼NE¼, NW¼SE¼
T. 42 N., R. 12 E.
Sec. 31: SE¼NE¼
T. 42 N., R. 9 E.
Sec. 10: NE¼NE¼, NW¼SE¼, S½SE¼
Sec. 12: SE¼NE¼, NE¼SE¼
Sec. 14: S½NW¼, NW¼SW¼
Sec. 15: NE¼, N½SE¼
Sec. 22: SW¼SW¼
Sec. 24: NE¼NW¼
Sec. 26: SW¼SW¼
Sec. 27: SE¼
Sec. 34: N½NE¼
Sec. 35: NW¼NE¼
T. 41 N., R. 11 E.
Sec. 14: NE¼NW¼
Sec. 23: SW¼NW¼
T. 40 N., R. 9 E.
Sec. 32: W½SE¼
T. 40 N., R. 7 E.
Sec. 14: N½SW¼, SE¼SW¼
Sec. 15: E½NE¼, NE¼SE¼
Sec. 23: SW¼NW¼, W½SW¼, SE¼SW¼
Sec. 26: N½NW¼
T. 39 N., R. 9 E.
Sec. 3: Lot 2, S½NE¼
Sec. 4: S½NW¼, W½SE¼
Sec. 9: S½SE¼
Sec. 17: NE¼NW¼
Sec. 21: W½NE¼
T. 39 N., R. 7 E.
Sec. 17: NW¼NW¼
Sec. 18: NE¼NE¼
A total of 3422.24 Acres.

In exchange for these lands, the Federal Government will acquire an interest in tracts of non-federal lands in Modoc County from the Trust for Public Lands, in the form of a mortgage holder's lien/deed of trust and payment of property taxes owed. The lands are described as follows:

Mount Diablo Meridian, California

T.41N., R.14E.
Sec. 8: E½SW¼, SE¼
Sec. 9: S½SW¼
Sec. 16: All
Sec. 17: N½, W½SW¼
Sec. 18: SE¼SE¼
A total of 1400.00 acres.

All mineral rights on the public lands will be exchanged with the surface rights. All mineral rights will also be acquired with the private land.

The purpose of the exchange is to acquire clear title to non-federal lands that provide wetlands and critical deer winter range. These values outweigh the values found on the Federal lands to be exchanged. The exchange will benefit the general public and the local agricultural economy, and provide improved management of Federal and private lands. The exchange is consistent with Bureau planning and has been discussed with Modoc County. The public interest will be served by making this exchange. An environmental assessment will be prepared before any of the above mentioned public lands are exchanged.

The interest in private lands will be acquired in exchange for an equal value of public lands, under the Cooperative Land Exchange Agreement between Bureau of Land Management (BLM) and the Trust for Public Land (TPL) for the State of California, dated February 15, 1990. Under that agreement, the BLM and TPL will "pool" offered private lands and selected public lands throughout California, and convey said lands through exchange between the two parties. Values of the offered private lands and selected public lands conveyed from the pool shall be balanced on a statewide basis at least every two years.

There will be reserved to the United States in the public lands to be exchanged, a right-of-way thereon for ditches and canals constructed by the authority of the United States (Act of August 30, 1890, 43 U.S.C. 945).

Certain parcels of public lands may be patented subject to valid existing rights. The following rights-of-way or reservations are present on the public lands to be exchanged:

T. 44 N., R. 14 E., M.D.M.
Sec. 31: SW¼SW¼; Right-of-way CACA 6761, for a powerline.
Sec. 32: NW¼SW¼; Right-of-way CACA 6761, for powerline guys and anchors.
T. 43 N., R. 13 E., M.D.M.
Sec. 30: SE¼NE¼, NE¼SE¼; Right-of-way S 3084, for an irrigation ditch.
T. 39 N., R. 9 E., M.D.M.
Sec. 17: NE¼NW¼; Reservation to the United States CACA 13827, for a road.
Sec. 21: W½NE¼; Reservation to the United States CACA 13827, for a road.

The publication of this notice in the **Federal Register** shall segregate the public lands described herein from all other forms of appropriation and entry under the public land laws and the mining laws for a period of two years. The exchange is expected to be completed before the end of that period.

Detailed information concerning the exchange is available for review at the Bureau of Land Management's District Office, 705 Hall Street, Susanville, California 96130, and at the Alturas Resource Area Office, 608 West 12th Street, Alturas, California 96101.

COMMENTS: The publication date of this notice will commence the 45 day comment period. Within that 45 day time period, interested parties may submit comments to the District Manager.

ADDRESSES: Comments should be sent to the Susanville District Manager, Bureau of Land Management, 705 Hall Street, Susanville, California 96130.

Robert J. Sherve,
Acting District Manager.

[FR Doc. 90-25231 Filed 10-24-90; 8:45 am]
BILLING CODE 4310-40-M

[NV-930-91-4212-11-; N-51517]

Corrected Notice of Realty Action; Nevada

The Notice of Realty Action published in the **Federal Register** on September 28, 1990 (FR Doc. 90-22927), is hereby corrected with respect to the legal description for application N-51517. The proper legal description is as follows:

Mount Diablo Meridian, Nevada

T. 20 S., R. 60 E.,
Sec. 22, SE¼SW¼SE¼ Aggregating 10 acres.

All other terms and conditions of the Notice continue to apply.

Dated: October 18, 1990.

Ben F. Collins,
District Manager, Las Vegas, NV.

[FR Doc. 90-25239 Filed 10-24-90; 8:45 am]
BILLING CODE 4310-HC-M

[WY-040-D1-4410-90]

Resource Management Plan; Green River Resource Area, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Publication of the proposed planning criteria for the Resource

Management Plan (RMP) for the Green River Resource Area, Rock Springs District, Wyoming.

SUMMARY: Planning criteria are used to guide development of alternatives in the RMP and to ensure that the RMP is tailored to the issues. Planning criteria are generally based upon applicable law such as the Federal Land Management Policy Act (FLPMA) and the National Environmental Policy Act (NEPA).

DATES: December 30, 1990.

ADDRESSES: Copies of the planning criteria are available upon request from the Green River Resource Area Office, P.O. Box 1170, Green River, Wyoming 82902–1170, (307) 363–6422.

FOR FURTHER INFORMATION CONTACT: If you wish to comment on the planning criteria or wish to be placed on the mailing list for the RMP, contact Bill LeBarron, Green River Resource Area Manager, at the above address. Please submit your comments to the above address by December 30, 1990.

SUPPLEMENTARY INFORMATION: Planning criteria are the constraints or ground rules that are developed to guide and direct the resource management plan. The planning criteria serves to:

1. Ensure that the planning effort is focused on the issues, provides for management of all resource uses in the Green River Resource Area, and that plan preparation is accomplished efficiently.

2. Establish a written link between the decision maker, the interdisciplinary planning team, and the public to determine the scope and parameters of the planning effort.

3. Allow the public to know what they should or should not expect from the plan and to identify issues and questions that are not ready for a decision and that will be addressed only through subsequent planning efforts.

4. Incorporate and document legal requirements.

5. Planning criteria are based on standards prescribed by policy, laws and regulations, State Director guidance, public input, results of consultation and coordination with other agencies and governmental entities, analysis of information pertinent to the planning area, and professional judgement.

6. Planning criteria will be developed with public input.

Planning criteria may be modified throughout the planning process, if necessary, based upon public comments and additional resource information.

Dated: October 17, 1990.

F. William Eikenberry,

Associate State Director, Wyoming.

[FR Doc. 90–25233 Filed 10–24–90; 8:45 am]

BILLING CODE 4310–22–M

[CO–942–91–4730–12]

Colorado: Filing of Plats of Survey

October 18, 1990.

The plats of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10 a.m., October 18, 1990.

The plat representing the dependent resurvey of portions of the south and east boundaries and the subdivisional lines and the subdivision of certain sections, T. 35 N., R. 19 W., New Mexico Principal Meridian, Colorado, Group No. 735, was accepted October 16, 1990.

This survey was executed to meet certain administrative needs of the Bureau of Indian Affairs.

The plat representing the dependent resurvey of portions of the Second Standard Parallel South (south boundary), the Eleventh Guide Meridian West (west boundary), and the subdivisional lines, and the subdivision of certain sections, T. 10 S., R. 88 W., Sixth Principal Meridian, Colorado, Group No. 832, was accepted October 9, 1990.

This survey was executed to meet certain administrative needs of the U.S. Forest Service.

The plat representing the dependent resurvey of portions of the Tenth Guide Meridian West (west boundary) and subdivisional lines, and the subdivision of certain sections, T. 1 N., R. 81 W., Sixth Principal Meridian, Colorado, Group No. 877, was accepted October 11, 1990.

The plat representing the dependent resurvey of portions of the New Mexico Principal Meridian (Townships 32 and 33 North), the Eighth Standard Parallel North (south boundary, T. 33 N., R. 1 E.), and the subdivisional lines and the subdivision of certain sections, Fractional T. 32 N., R. 1 E., New Mexico Principal Meridian, Colorado, Group No. 929, was accepted October 16, 1990.

These surveys were executed to meet certain administrative needs of this Bureau.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado, 80215.

Jack A. Eaves,

Chief, Cadastral Surveyor for Colorado.

[FR Doc. 90–25237 Filed 10–24–90; 8:45 am]

BILLING CODE 4310–JB–M

Fish and Wildlife Service

Availability of Draft Recovery Plans for Spikedace and Loach Minnow for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of draft recovery plans for the spikedace (*Meda fulgida*) and the loach minnow (*Tiaroga cobitis*). These two threatened fish occur in portions of the Gila, Tularosa, San Francisco, Blue, White, and Verde Rivers and Eagle, Aravaipa, Dry Blue, and Campbell Blue Creeks on Federal, state, and private lands in Grant and Catron Counties, New Mexico; and Gila, Greenlee, Graham, Pinal, Navajo, and Yavapai Counties, Arizona. The Service solicits review and comment from the public on these draft plans.

DATES: Comments on the draft recovery plans must be received on or before November 26, 1990, to receive consideration by the Service.

ADDRESSES: Persons wishing to review either or both of the draft recovery plans may obtain a copy by contacting the U.S. Fish and Wildlife Service, 3616 West Thomas Road, suite 6, Phoenix, Arizona 85019. Written comments and materials regarding the plans should be addressed to the Field Supervisor at the above address. Comments and materials received are available on request for pulic inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Sally Stefferud, Fish and Wildlife Biologist; telephone (602) 379–4720, FTS 261–4720 (see **ADDRESSES**).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals or plants to the point where they are again secure, self-sustaining members of their ecosystems 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. 1413 *et seq.*), requires the development of recovery plans for listed species unless than 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 approved recovery plans.

The Loach minnow is a threatened fish that has been extirpated from most of its historic range in the Gila River basin of New Mexico, Arizona, and Sonora, Mexico. It is presently found only in the upper Gila, San Francisco, and Tularosa Rivers in Grant and Catron Counties, New Mexico; and in the White, San Francisco, and Blue Rivers, and Aravaipa, Dry Blue, and Campbell Blue Creeks in Gila, Greenlee, Graham, Navajo, and Pinal Counties, Arizona. The loach minnow is a bottom dwelling species that inhabits turbulent waters over gravel/cobble bottoms in fast-flowing streams.

The spikedace is a threatened fish that has also been extirpated from most of its historic range in the Gila River basin of Arizona and New Mexico. It is presently found only in the upper Gila River in Grant and Catron Counties, New Mexico; and in the upper Verde River, and Aravaipa and Eagle Creeks in Graham, Greenlee, Pinal, and Yavapai Counties, Arizona. The spikedace inhabits riffles and runs in shallow, flowing waters over gravel, cobble, and sand bottoms. The primary habitat for adults consists of shear zones where fast water meets slow water.

All existing populations of both spikedace and loach minnow are under threat. Major threats include dams, water diversion, watershed deterioration, channelization, and introduction of non-native predatory and competitive fishes. The objective of both recovery plans is to set forth measures that will provide for protection of existing loach minnow and spikedace populations, restoration of populations in portions of historic habitat, and eventual downlisting, if possible. Mechanisms are set forth in each plan for defining the standard by which recovery progress to downlisting will be judged. Actions called for in the plans include protection, monitoring, enhancement, and study of existing populations and their habitat; study of interactions with non-native fishes; quantification of effects of habitat modification; reintroduction into portions of the historic range; possible captive propagation; and information and education.

Both the loach minnow and spikedace recovery plans have already undergone extensive review by Federal, state, and local agencies; species experts; business organizations; conservation organizations; and other interested parties. The plans will be issued as final following incorporation of comments and material received during this comment period.

Public Comments Solicited

The Service solicits written comments on the recovery plans described. All comments received by the date specified above will be considered prior to approval of the plans.

Authority

The Authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: October 16, 1990.

Pat A. Langley,

Acting Regional Director.

[FR Doc. 90-25249 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

[MMS Account No. 0-31-8300-415]

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Alaska Outer Continental Shelf

AGENCY: Minerals Management Service (MMS), Department of the Interior.

ACTION: Notice of the availability of environmental documents prepared for outer continental shelf (OCS) minerals exploration proposals on the Alaska OCS.

SUMMARY: The MMS, in accordance with Federal regulations (40 CFR 1501.4 and 40 CFR 506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related Environmental Assessments (EA's) and Findings of No Significant Impact (FONSI's) prepared by the MMS for oil and gas exploration activities proposed on the Alaska OCS. This listing includes all proposals for which FONSI's were prepared by the Alaska OCS in the 3-month period preceding this Notice.

Proposal

Shell Western E&P Inc. proposes to permanently abandon and dismantle Tern "A" Artificial Island. The island is located on Sale BF lease OCS-Y 0196 in the Beaufort Sea, which is in Foggy Island Bay about 20 miles east of Prudhoe Bay. It is a gravel island that is protected by gravel bags and filter fabric. The abandonment plan involves proper abandonment of wells and the recovery from the island of all surface hardware from wells and slope protection gravel bags and filter fabric to the mudline. The material will be removed from the island and disposed of at an approved solid-waste disposal site. Sizeable holes will be filled and small hummocks will be created in the gravel surface to provide an improved habitat for bird nesting. Wells to be abandoned explored leases OCS-Y 0195, 0196, and 0197. The abandonment operation will be conducted with heavy equipment between mid-July and early September 1990.

Location

Lease numbers	Block numbers
OCS-Y:	
0195	744
0196	745
0917	788

EA Number

EA No. AK 90-03.

FONSI Date

July 11, 1990.

Proposal

Chevron, as operator for itself and CONOCO Inc., proposes to drill one or two wells per year, a maximum of three wells, to explore three leases collectively called the Canvasback Prospect. The leases, acquired from Lease Sale 87, are located in the western Beaufort Sea about 50 miles east of Point Barrow in 118 to 210 feet of water. As part of the Exploration Plan (EP), Chevron is requesting an exception to Sale 87 Stipulation No. 4 to conduct drilling operations during the fall bowhead whale migration. Stipulation No. 4 prohibits exploratory drilling, testing, and other downhole exploratory activities during the spring and fall bowhead whale migrations. The wells will be drilled during the open-water season, as early as June 16 through

November, from the BeauDril Limited *Kulluk*, a conically shaped, ice-strengthened semisubmersible. Drilling would occur 1991 through 1993.

Location

Lease numbers	Block numbers
OCS-Y:	
0729	NR 5-1 518
0732	562
0733	563

EA Number

EA No. AK 90-04.

FONSI Date

August 20, 1990.

Proposal

Chevron, as operator for itself and others, proposes to drill one or two wells per year to explore the West Maktar prospect: five leases acquired from Lease Sales 87 and 97. Leases are located in the eastern Alaskan Beaufort Sea off Camden Bay, in approximately 108 feet of water. As part of the EP, Chevron is requesting an exception to Sale 87 Stipulation No. 4 to conduct drilling operations during the fall bowhead whale migration. Stipulation No. 4 prohibits exploratory drilling, testing, and other downhole exploratory activities during the spring and fall bowhead whale migrations. The wells will be drilled during the open-water season, generally August through November, from the BeauDril Limited *Kulluk*, a conically shaped ice-strengthened semisubmersible, beginning as early as 1991 and ending in 1993.

Location

Lease numbers	Block numbers
OCS-Y:	
0852	NR 6-4 629
0866	673
0867	674
0877	718
1102	717

EA Number

EA No. AK 90-05.

FONSI Date

August 29, 1990.

FOR FURTHER INFORMATION: Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EA's and FONSI's prepared for activities on the Alaska OCS are encouraged to contact the Alaska OCS Regional office of MMS.

The FONSI's and associated EA's are available for public inspection between the hours of 7:45 a.m. and 4:30 p.m., Monday through Friday at: Minerals Management Service, Alaska OCS Region, Library, 949 East 36th Avenue, Room 502, Anchorage, Alaska 99508-4302, phone: (907) 261-4435.

SUPPLEMENTAL INFORMATION: The MMS prepares EA's and FONSI's for proposals which relate to exploration for oil and gas resources on the Alaska OCS. The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. The EA is used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA 102(2)(C). A FONSI is prepared in those instances where MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This Notice constitutes the public Notice of Availability of environmental documents required under the NEPA regulations.

Dated: October 11, 1990.

Alan D. Powers,

Regional Director, Alaska OCS Region.

[FR Doc. 90-25245 Filed 10-24-90; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Overseas Private Investment Corporation

Public Hearing

AGENCY: Overseas Private Investment Corporation, IDCA.

ACTION: Notice of public hearing.

SUMMARY: This notice sets forth the schedule and requirements for participation in an annual public hearing to be conducted by the Board of Directors of the Overseas Private Investment Corporation (OPIC) on November 27, 1990. This hearing is required by the OPIC Amendments Act of 1985, and this notice is being published to facilitate public participation. The notice also describes OPIC and the subject matter of the hearing.

DATES: The hearing will be held on November 27, 1990, and will begin promptly at 1:30 p.m. Prospective participants must submit to OPIC on or before November 9, 1990, notice of their intent to participate.

ADDRESSES: The location of the hearing will be: Overseas Private Investment Corporation, 1615 M Street, NW., Fourth Floor, Washington, DC.

Notices and prepared statements should be sent to James R. Offutt, Office of the General Counsel, Overseas Private Investment Corporation, 1615 M Street, NW., Washington, DC. 20527.

PROCEDURE: (a) *Attendance; Participation.* The hearing will be open to the public. However, a person wishing to present his or her views at the hearing must provide OPIC with advance notice on or before November 9, 1990. The notice must include the name, address and telephone number of the person who will make the presentation, the name and address of the organization which the person represents (if any) and a concise summary of the subject matter of the presentation.

(b) *Prepared Statements.* Any participant wishing to submit a prepared statement for the record must submit it to OPIC with the notice or, in any event, not later than 5 p.m. on November 16, 1990. Prepared statements must be typewritten, double spaced and should not exceed twenty-five (25) pages.

(c) *Duration of Presentations.* Oral presentations will in no event exceed ten (10) minutes, and the time for individual presentations may be reduced proportionately, if necessary, to afford all prospective participants on a particular subject an opportunity to be heard or to permit all subjects to be covered.

(d) *Agenda.* Upon receipt of the required notices, OPIC will draw up an agenda for the hearing setting forth the subjects on which each participant will speak and the time allotted for each presentation. OPIC will provide each prospective participant with a copy of the agenda.

(e) *Publication of Proceedings.* A verbatim transcript of the hearing will be compiled and published. The transcript will be available to members of the public at the cost of reproduction.

SUPPLEMENTARY INFORMATION: OPIC is a U.S. Government agency which provides, on a commercial basis, political risk insurance and financing in friendly developing countries and emerging democracies for projects which confer positive developmental benefits upon the project country while

avoiding negative effects on the U.S. economy and the environment of the host country. OPIC's Board of Directors is required by section 213A(b) of the Foreign Assistance Act of 1961, as amended ("the Act") to hold at least one public hearing each year.

Among other issues, OPIC's annual public hearing has, in previous years, provided a forum for testimony concerning Section 231A(a) of the Act. This section provides that OPIC may operate its programs only in those countries that are determined to be "taking steps to adopt and implement laws that extend internationally recognized worker rights to workers in that country (including any designated zone in that country)."

Based on consultations with Congress, OPIC complies with annual determinations made by the Executive Branch with respect to worker rights for countries that are eligible for the Generalized System of Preferences (GSP). Any country for which GSP eligibility is revoked on account of its failure to take steps to adopt and implement internationally recognized worker rights is subject concurrently to the suspension of OPIC programs until such time as a favorable worker rights determination can be made.

For non-GSP countries in which OPIC operates its programs, OPIC has agreed to provide a worker rights report to the Congress for any country which is the subject of a formal challenge at its annual public hearing. To qualify as a formal challenge, testimony must pertain directly to the worker rights requirements of the law as defined in OPIC's 1985 reauthorizing legislation (Pub. L. 99-204) with reference to the Trade Act of 1974, as amended, and be supported by factual information.

FOR FURTHER INFORMATION ABOUT THE PUBLIC HEARING CONTACT: James R. Offutt, Office of General Counsel, Overseas Private Investment Corporation, 1615 M Street, NW., Washington, DC. 20527 (202) 457-7038.

October 18, 1990.

Dennis K. Dolan,

Corporate Secretary.

[FR Doc. 90-25188 Filed 10-25-90; 8:45 am]

BILLING CODE 3210-01-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31743]

The Indiana & Ohio Central Railroad, Inc.; Modified Rail Certificate

On September 25, 1990, the Indiana & Ohio Central Railroad, Inc. (IOC), filed a notice for a modified certificate of public convenience and necessity under 49 CFR 1150.23 to operate approximately 8.73 miles of railroad acquired by the Clark County-Fayette County Port Authority (CFPA).[1] The line has been owned and operated by The Grand Trunk Western Railroad Company (GTW) as is known as the Springfield Subdivision. Abandonment of the line was authorized by the Commission in Docket No. AB-31 (Sub-No. 29), *The Grand Trunk Western Railroad Company—Abandonment—In Clark, Madison and Fayette Counties, OH* (not printed), served March 7, 1990.[2]

On September 4, 1990, IOC entered into a 100-year renewable lease with CFPA under which IOC would begin to operate and maintain the line within 24 hours of the date CFPA acquires the property. IOC intends to interchange and connect traffic with CSX Transportation, Inc., at an interchange point with the latter's line near Washington, Court House, at Fayne.

This notice involves the lease of property, which is defined by the regulations of the Advisory Council on Historic Preservation as potentially having an adverse effect on properties. IOC shall maintain its interest in and take no steps to alter the historic integrity of all sites and structures on the line that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470.

This notice must be served on the Association of American Railroads (Car Service Division) as agent of all railroad subscribing to the car-service and car-hire agreement, and on the American Short Line Railroad Association.

Dated: October 18, 1990.

[1] CFPA is a political subdivision of the State of Ohio and, thus, qualifies as a "State" as defined at 49 CFR 1150.21.

CFPA is acquiring the line in two stages: (1) The 8.73-mile segment between milepost 221.1, near Jeffersonville, OH, and milepost 228.83, at Fayne, OH, was to have been acquired on October 5, 1990, and operations were to have commenced on October 8, 1990; and (2) the balance of the line, from milepost 202.70, at Springfield, OH, to milepost 221.1, near Jeffersonville, OH, a distance of approximately 18.4 miles, is to be acquired on December 31, 1990, with operations scheduled to commence on January 1, 1991. IOC may not begin operations on the second segment until CFPA's acquisition of that segment has been consummated.

[2] After an unsuccessful attempt by CFPA and GTW to transfer the line through an offer of financial assistance (OFA), GTW and CFPA continued to negotiate and reached an agreement for the purchase of the subject line outside the OFA process.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-25262 Filed 10-24-90; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31749]

Trac-Work, Inc.; Continuance in Control Exemption; Ogeechee Railway Company and Acadiana Railway Co.

Trac-Work, Inc., (TWI), filed a notice of exemption to continue to control Ogeechee Railway Company (Ogeechee), an existing class III rail carrier, and Acadiana Railway Company (Acadiana) upon Acadiana becoming a carrier. Prior to filing the notice TWI was in control of Ogeechee and Acadiana through direct or indirect stock ownership.

In Finance Docket No. 31570, *Ogeechee Railway Company—Purchase and Trackage Rights—Missouri Pacific Railroad Company Lines in Louisiana* (not printed), served August 2, 1990,[1] (*MP and SP*) the Commission approved the purchase and acquisition by Ogeechee of certain assets including rail lines and trackage rights. Acadiana has not previously been a carrier, but under a notice of exemption in Finance Docket No. 31753, *Acadiana Railway Company—Acquistion and Operation Exemption—Ogeechee Railway Company*, Ogeechee was to transfer a substantial portion of the rail assets involved in *MP and SP* to Acadiana. None of the Assets involved in *MP and SP* will be retained by Ogeechee.

A reallocation of ownership interests with respect to Acadiana and Ogeechee was intended to occur at the same time as the transfer to Acadiana. After this reallocation, TWI would own, directly and indirectly, at least two-thirds of the stock of Ogeechee and of Acadiana. Thus the two railroads remain members of the same corporate family.

This transaction involves the acquisition or continuance in control of nonconnecting carriers where: (1) The railroads would not connect with each other or any railroads in their corporate family; (2) the acquisition or continuance in control is not a part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (3) the transaction does not involve a Class I carrier. The transaction therefore is exempt from the prior

[1] Embracing Finance Docket No. 31571, Ogeechee Railway Company—Purchase—Southern Pacific Transportation Company Line near Opelousas, LA.

approval requirements of 49 U.S.C. 11343. *See* 49 CFR 1180.2(d)(2).

As a condition to use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505 (d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Any pleadings must be filed with the Commission and served on John M. Robinson, 9616 Old Spring Road, Kensington, MD 20895.

Decided: October 17, 1990.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-25263 Filed 10-24-90; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree

In accordance with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that a complaint styled *United States* v. *Bell Petroleum Services, Inc., et al.*, Civil Action No. MO-88-CA-005, was filed in the United States District Court for the Western District of Texas on December 1, 1988. On October 18, 1990, a consent decree between the United States as plaintiff, and John R. Leigh as defendant was lodged with the court in partial settlement of the allegations in the complaint. This consent decree settles the government's claims in the complaint against John R. Leigh, pursuant to sections 104, 106 and 107 of CERCLA, 42 U.S.C. 9604, 9606, 9607, for injunctive relief to abate an imminent and substantial endangerment to the public health, welfare or the environment because of actual or threatened release of hazardous substances from a facility, and for the recovery of response costs incurred by the United States with respect to a facility located in Odessa, Ector County, Texas, known as the "Odessa Chromium I Site" (hereafter "the Site"). The complaint alleged, among other things, that the defendant is a person who at the time of disposal of any hazardous substance owned and operated any facility at which such hazardous substances were disposed of. The complaint further alleged that the United States has incurred and will continue to incur response costs in response to the release or threat of release of hazardous substances.

Under the terms of the proposed consent decree, the defendant John R. Leigh agrees to pay to the United States the sum of one hundred thousand dollars ($100,000.00) for the United States' response costs. The United States will continue to seek the remainder of its response costs from defendants named in the complaint who are not parties to the consent decree.

The Department of Justice will received comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, 10th and Pennsylvania Avenue, NW., Washington, DC 20530. All comments should refer to *United States* v. *Bell Petroleum Services, Inc.*, D.J. Ref. 90-11-3-229A. The proposed consent decree may be examined at the following offices of the United States Attorney and the Environmental Protection Agency ("EPA"):

United States Attorney's Office

Office of the United States Attorney, U.S. Courthouse, 200 East Wall Street, room 304 Midland, Texas 79701, (915) 684-4120

EPA Region VI

Contact: Bruce Jones, Office of Regional Counsel U.S. Environmental Protection Agency, Region VI, 1445 Ross Avenue, Dallas, Texas 75202-2733, (214) 655-2120.

Copies of the proposed consent decree may also be examined at the Environmental Enforcement Section Document Center, 1333 F. Street, NW., Washington, DC 20004, (202) 347-7829. A copy of the proposed consent decree may be obtained by mail from the Document Center. When requesting a copy of the decree, please enclose a check for copying costs in the amount of $3.75 payable to "Consent Decree Library."

George Van Cleeve,

Environment and Natural Resources Division.

[FR Doc. 90-25250 Filed 10-24-90; 8:45 am]

BILLING CODE 4410-01-M

Consent Judgment in Action Pursuant to the Resource Conservation and Recovery Act

In accordance with Departmental Policy, (*see generally* 28 CFR 50.7, 38 FR 19029), notice is hereby given that a Consent Decree settling the claims alleged in the complaint in *United States* v. *General Electric Company*, Civ. Action No. 86-CV-848 (Hon. J. Cholakis), an action filed against the General Electric Company in 1986 pursuant to the Resource Conservation and Recovery Act was lodged with the United States District court for the Northern District of New York on October 11, 1990.

The complaint was filed on July 23, 1986 under section 3008 (a) and (g) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6928 (a) and (g), seeking injunctive relief and payment of civil penalties for alleged violations of RCRA Subchapter III, 42 U.S.C. 6921-6939a, and implementing regulations at GE's silicone production facility in Waterford, New York.

Pursuant to the terms of the Consent Decree, GE will construct a container/drum storage pad with a protective roof, implement additional procedures for the management of its container/drum storage pad, and provide personnel training in the application and implementation of the procedures. GE will also pay a civil penalty in the amount of $176,000.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530 and should refer to DOJ #90-7-1-327.

The Consent Decree may be examined at the Office of the United States Attorney, 369 Federal Building, 100 South Clinton St., Syracuse, New York, 13260 and U.S. Courthouse & Post Office, 2nd Floor, Region II Office of the Environmental Protection Agency, Federal Plaza, New York, New York, 10278; and the Environmental Enforcement Section, Environment and Natural Resources Division of the Department of Justice, room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 1333 F Street, NW., suite 600, Washington, DC 20004, Telephone Number (202) 347-2072. In requesting a copy, please enclose a check in the amount of $9.75 (25 cents per page reproduction charge) payable to Consent Decree Library.

Richard B. Stewart,

Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 90-25251 Filed 10-24-90; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984—Fuel Cell Commercialization Group

Notice is hereby given that, on September 21, 1990, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the Fuel Cell Commercialization Group ("FCCG") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to FCCG and (2) the FCCG's nature and objectives. The notifications were filed for the purpose of invoking the Act's provisions limiting the potential recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to FCCG and its general area of planned activities are given below.

The current members to the FCCG are: Alabama Municipal Electric Authority; City of Anaheim; Lincoln Electric System; Los Angeles Department of Water & Power; National Rural Electric Cooperative Association; Pacific Gas & Electric Company; City of Palo Alto; Salt River Project Agricultural Improvement and Power District; City of Santa Clara; and United Power Association.

Membership to the FCCG remains open, and the members intend to file additional written notifications disclosing all changes in membership.

The FCCG's planned area of activity is research and development related to technology for the production of electrical energy by molten carbonate fuel cells.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 90-25252 Filed 10-24-90; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

[Docket No. 90-53]

Richard A. Cole, M.D. Erie, PA; Notice of Hearing

Notice is hereby given that on July 25, 1990, the Drug Enforcement Administration, Department of Justice, issued to Richard A. Cole, M.D., an Order to Show Cause as to why the Drug Enforcement Administration should not revoke your DEA Certificate of Registration, AC8141626, and deny any pending applications for a DEA Certificate of Registration.

Thirty days have elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on November 6 and 7, 1990, commencing at 9:30 a.m., at the Drug Enforcement Administration Headquarters, 600 Army Navy Drive, Hearing Room, Room E-2103, Arlington, Virginia.

Dated: October 15, 1990.

Robert C. Bonner,

Administrator, Drug Enforcement Administration.

[FR Doc. 90-25291 Filed 10-24-90; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Arts In Education Advisory Panel; 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 Arts In Education Advisory Panel (Advancement Section) to the National Council on the Arts will held on November 16, 1990 from 9 a.m.-4 p.m. in room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is 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. In accordance with the determination of the Chairman of October 19, 1990 these sessions will be closed to the public pursuant to subsections (c) (4), (6) and (9) (B) of section 552b 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: October 19, 1990.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90-25279 Filed 10-24-90; 8:45 am]

BILLING CODE 7537-01-M

Arts National Council; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on November 2, 1990, from 9 a.m.-5:30 p.m. and on November 3 from 9 a.m.-5:45 p.m. in room M-09 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting will be open to the public on a space available basis. The topics for discussion will be on Opening Remarks, Legislative Update, Discussion of Recommendations of Independent Commission, Institutional Grants: Project Support vs. Seasonal Support, Fellowships: Career Development vs. Project Support, Report of the International Committee, Regional Representative Report, and Application Review and/or Guidelines and/or Program Review for the Arts in Education: Special Projects; Challenge/Advancement; Dance; Design Arts; Inter-Arts; Literature; Media Arts; Museum; Music: Presenters and Festivals; Opera-Musical Theater; Policy, Planning and Research; Theater and Visual Arts Programs.

If in the course of application review it becomes necessary for the Council to discuss non-public financial information about individuals, such as salary information, submitted with grant applications, the Council will go into closed session for that limited purpose only pursuant to subsection (c)(4) of section 552b of title 5, United States Code. Such closure would be in accordance with the determination of the Chairman of October 19, 1990.

Any interested persons may attend, as observers, Council discussions and reviews which are open to the public.

If you need special accommodation due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

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: October 19, 1990.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90-25277 Filed 10-24-90; 8:45 am]

BILLING CODE 7537-01-M

Dance Advisory Panel; 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 Dance Advisory Panel (Dance Presenters Section) to the National Council on the Arts will be held on November 14–15, 1990 from 9 a.m.–8 p.m. and on November 16 from 9 a.m.–6 p.m. in Room M–07 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on November 16 from 4 p.m.–6 p.m. The topic will be policy discussion.

The remaining portions of this meeting on November 14–15 from 9 a.m.–8 p.m. and November 16 from 9 a.m.–4 p.m. 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 information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of October 19, 1990 these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any interested persons may attend, as observers, meetings, or portions thereof, of advisory panels which are open to the public.

Members of the public attending an open session of a meeting will be permitted to participate in the panel's discussions at the discretion of the chairman of the panel if the chairman is a full-time Federal employee. If the chairman is not a full-time Federal employee, then public participation will be permitted at the chairman's discretion with the approval of the full-time Federal employee in attendance at the meeting, in compliance with this guidance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting an 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: October 19, 1990.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90–25280 Filed 10–24–90; 8:45 am]

BILLING CODE 7537–01–M

Design Arts Advisory Panel; 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 Design Arts Advisory Panel (Design Advancement Project Grants for Individuals, Design Innovation, USA Fellowships, and International Exchange Fellowships Sections)) to the National Council on the Arts will be held on November 14–15, 1990 from 9 a.m.–7 p.m. and on November 16 from 9 a.m.–4 p.m. in Room M–14 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public on November 14 from 9 a.m.–10 a.m. and November 16 from 3 p.m.–4 p.m. The topics will be introductory remarks and policy discussion.

The remaining portions of this meeting on November 14 from 10 a.m.–7 p.m., November 15 from 9 a.m.–7 p.m. and November 16 from 9 a.m.–3 p.m. 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 information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of October 19, 1990 these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any interested persons may attend, as observers, meetings, or portions thereof, of advisory panels which are open to the public.

Members of the public attending an open session of a meeting will be permitted to participate in the panel's discussions at the discretion of the chairman of the panel if the chairman is a full-time Federal employee. If the chairman is not a full-time Federal employee, then public participation will be permitted at the chairman's discretion with the approval of the full-time Federal employee in attendance at the meeting, in compliance with this guidance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

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: October 19, 1990.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90–25281 Filed 10–24–90; 8:45 am]

BILLING CODE 7537–01–M

Museum Advisory Panel; 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 Museum Advisory Panel (Care of Collections Section) to the National Council on the Arts will be held on November 13–15, 1990 from 9:15 a.m.–5:30 p.m. in Room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506,

A portion of this meeting will be open to the public on November 13 from 9:15 a.m.–10 a.m. The topics will be opening remarks and general discussion.

The remaining portions of this meeting on November 13 from 10 a.m.–5:30 p.m. and November 14–15 from 9:15 a.m.–5:30 p.m. are for the purpose of Panel review, discussions, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of October 19, 1990 these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any interested persons may attend, as observers, meetings, or portions thereof, of advisory panels which are open to the public.

Members of the public attending an open session of a meeting will be permitted to participate in the panel's discussions at the discretion of the chairman of the panel if the chairman is a full-time Federal employee. If the chairman is not a full-time Federal employee, then public participation will be permitted at the chairman's discretion with the approval of the full-time Federal employee in attendance at the meeting, in compliance with this guidance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

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: October 19, 1990.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90–25282 Filed 10–24–90; 8:45 am]

BILLING CODE 7537–01–M

President's Committee on the Arts and the Humanities; Meeting

Wednesday, November 14 at nine o'clock in the morning has been designated by the President's Committee on the Arts and the Humanities for Meeting XXI. This meeting will be held in the Council Room (M–09), Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., in Washington, DC. This is a regularly secheduled meeting at which the Honorable Nicholas F. Brady, Secretary of the Treasury, will address the Committee. In addition, presentations will be made on priorities for private support in the humanities by Lynne Cheney, Chairman of the National Endowment for the Humanities and in the arts by John Frohnmayer, Chairman of the National Endowment for the Arts. The plenary session is expected to adjourn at 10:30 a.m.

The Committee, charged with exploring ways to increase private support for the arts and the humanities, has generated private funds which support projects and programs initiated by the President's Committee.

Please call 202–682–5409 or 212–512–5957 if you expect to attend, as space is limited.

Dated: October 22, 1990.

Yvonne M. Sabine,

Director, Council & Panel Operations, National Endowment for the Arts.

[FR Doc. 90–25283 Filed 10–24–90; 8:45 am]

BILLING CODE 7537–01–M

Theater Advisory Council; 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 Theater Advisory Panel (Advancement Section) to the National Council on the Arts will be held on November 7, 1990 from 9:30 a.m.–6 p.m. in room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public from 9:30 a.m.–10 a.m. and 5:30 p.m.–6 p.m. The topics will be introductory remarks and guidelines discussion.

The remaining portion of this meeting from 10 a.m.–5:30 p.m. is 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 information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of October 19, 1990 these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any interested persons may attend, as observers, meetings, or portions thereof, of advisory panels which are open to the public.

Members of the public attending an open session of a meeting will be permitted to participate in the panel's discussions at the discretion of the chairman of the panel if the chairman is a full-time Federal employee. If the chairman is not a full-time Federal employee, then public participation will be permitted at the chairman's discretion with the approval of the full-time Federal employee in attendance at the meeting, in compliance with this guidance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

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: October 19, 1990.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90–25278 Filed 10–24–90; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Information, Robotic, and Intelligent Systems Advisory Committee Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463 as amended, the National Science Foundation announces the following meeting.

Name: Advisory Committee for Information, Robotics, and Intelligent Systems.

Date and Time: Novemberr 13–14, 1990, 8:30 to 5:30 daily.

Place: Hotel Lombardy, 2109 I Street, NW., International room, Washington, DC 20006.

Type of Meeting: All open.

Contact Person: Dr. Y. T. Chien, Division Director, Division of Information, Robotics, and Intelligent Systems, room 310, National Science Foundation, 1800 G Street, NW., Washington, DC 20550. Telephone: (202) 357–9572. Anyone planning to attend this meeting should notify Dr. Chien no later than November 6, 1990.

Minutes: May be obtained from contact person listed above.

Purpose of Committee: To provide. advice and recommendations concerning support of research in Information, Robotics, and Intelligent Systems.

Agenda: November 13—Overview of the Division and Programs; Discussion of new NSF and CISE Programs; Presentation and discussion of IRIS workshop reports.

November 14—Discussion of strategic issues and divisional initiatives; Committee Business.

Dated: October 22, 1990

[FR Doc. 90–25259 Filed 10–24–90; 8:45 am]

BILLING CODE 7555–01–M

Law and Social Science Advisory Panel Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Law and Social Science.

Date/Time: November 16, 1990, 3 p.m. to 8 p.m. November 17, 1990, 9 a.m. to 5 p.m. November 18, 1990, 9 a.m. to 12 p.m.

Place: The Inn at Foggy Bottom, 824 New Hampshire Avenue, NW., Washington, DC 20037.

Type of Meeting: Part Open—November 16, 1990, 5—6 p.m. Closed Remainder.

Contact Person: Dr. Felice J. Levine, Program Director for Law and Social Science, National Science Foundation, Washington, DC 20550 Telephone (202) 357–9567.

Purpose of Panel: To provide advice and recommendations concerning research in Law and Social Science.

Agenda: To review and evaluate research proposals as part of the selection process for awards. (Closed) (Open) Discussion of future trends in Law & Social Sciences.

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: October 22, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90–25260 Filed 10–24–90; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panels; Meetings

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting(s) to be held at 1800 G. Street, NW., Washington, DC 20550 (except where otherwise indicated).

SUPPLEMENTARY INFORMATION: The purpose of the meetings is to provide advice and recommendations to the National Science Foundation concerning the support of research, engineeri..g, and science education. The agenda is to review and evaluate proposals as part of the selection process for awards. The entire meeting is closed to the public because the panels are reviewing proposals that 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), the Government in the Sunshine Act.

CONTACT PERSON: M. Rebecca Winkler, Committee Management Officer, room 208, 357–7363.

Dated: October 22, 1990.

M. Rebecca Winkler,

Committee Management Officer.

Committee name	Date(s)	Time		Location
Special Emphasis Panel in Cross-Disciplinary Activities—Agenda: CDA Site Visit.	11/16/90	8:30 am–5:00 pm	University of Wisconsin,	Madison, WI.
Special Emphasis Panel in Cross-Disciplinary Activities—Agenda: CDA Site Visit.	11/20/90	8:30 am–5:00 pm	Cornell University,	Ithaca, NY.
Special Emphasis Panel in Cross-Disciplinary Activities—Agenda: CDA Site Visit.	12/04/90	8:30 am–5:00 pm	Columbia University,	New York, NY.

Committee name	Agenda	Date(s)	Time	Room [1]
Special Emphasis Panel in Networking and Communications Research and Infrastructure.	Net & Communications Res.	11/19/90, 11/20/90	8:30 AM–5:00 PM, 8:30 AM–5:00 PM.	540–B
Special Emphasis Panel in Cross-Disciplinary Activities.	Faculty Awards for Women	12/04/90, 12/05/90	8:30 AM–5:00 PM, 8:30 AM–5:00 PM.	414
Special Emphasis Panel in Cross-Disciplinary Activities.	Res Experiences/Undergrad	12/12/90	8:30 AM–5:00 PM	414
Special Emphasis Panel in Materials Research	Faculty Awards for Women	11/19/90, 11/20/90	8:30 AM–5:00 PM, 8:30 AM–5:00 PM.	408
Special Emphasis Panel in Mathematical Sciences	Res Experiences/Undergrad	11/19/90, 11/20/90	8:30 AM–5:00 PM, 8:30 AM–5:00 PM.	523

[1] At 1800 G Street, N.W., Washington, DC

[FR Doc. 90–25261 Filed 10–24–90; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrences for Second Quarter CY 1990; Dissemination of Information

Section 208 of the Energy Reorganization Act of 1974, as amended, requires the NRC to disseminate information on abnormal occurrences (i.e., unscheduled incidents or events that the Commission determines are significant from the standpoint of public health and safety). The following incidents at NRC licenses were determined to be abnormal occurrences (AOs) using the criteria published in the **Federal Register** on February 24, 1977 (42 FR 10950). The AOs are described below, together with the remedial actions taken. The events are also being included in NUREG–0090, Vol 13, No. 2 ("Report to Congress on Abnormal Occurrences: April–June 1990"). This report will be available in the NRC's Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC about three weeks after the publication date of this **Federal Register** Notice.

Other NRC licensees

90–11 Deficiencies in Brachytherapy Program

One of the AO examples notes that an event involving serious deficiences in management controls can be considered an Abnormal Occurrence.

Date and Place—On March 28, 1990, NRC Region III received allegations

pertaining to brachytherapy treatments at the St. Mary Medical Center facilities in Gary and Hobart, Indiana. The NRC also conducted a special inspection at Porter Memorial Hospital, Valparaiso, Indiana. Although the original allegations did not include Porter Memorial Hospital, the NRC inspection was made because brachytherapy procedures at Porter Memorial Hospital were performed by the same physician as those at the St. Mary facilities. Following the NRC inspections at the facilities, Orders suspending the brachytherapy procedures were issued by the NRC staff to the three hospitals. The Order to the St. Mary Medical Center facilities was issued on April 27, 1990. The Order to Porter Memorial Hospital was issued on May 2, 1990.

Nature and Probable Consequences—On March 28, 1990, NRC Region III (Chicago) received allegations pertaining to brachytherapy treatments performed by one of the authorized users at St. Mary Medical Center in Gary and Hobart, Indiana. The alleger contended that the authorized user did not evaluate patients' treatment plans prior to treatment and that the patients therefore did not receive the prescribed dose of radiation during the procedure.

Brachytherapy involves the use of small sealed capsules containing readioactive material. These capsules, which are used in the treatment of cancer, are either surgically implanted, placed in body cavities, or applied to the skin.

Assisted by a medical consultant, the NRC conducted a preliminary inquiry into the allegations on March 30–April 19, 1990. This inspection substantiated some of the allegations, and the NRC concluded that the two St. Mary facilities were not exercising adequate management control to assure that NRC requirements were met.

Because the same authorized user performed brachytherapy treatments at Porter Memorial Hospital, the NRC performed a special inspection April 5–April 27, 1990, at this facility. The inspection determined that adequate records had not been maintained at the hospital to evaluate whether or not the brachytherapy procedures had been administered as prescribed and planned.

On April 27, 1990, the NRC Staff issued an Order to the two St. Mary Medical Center facilities suspending brachytherapy activities. The Order also directed the medical facilities to perform an independent evaluation of brachytherapy procedures performed since the brachytherapy program was started in May 1986. On May 2, 1990, the NRC Staff issued a Confirmatory Order to Porter Memorial Hospital confirming the licensee's agreement to suspend its brachytherapy program and to require an independent evaluation of previous brachytherapy procedures.

Planning for these two independent evaluation programs is underway. One of the goals of the programs is to determine if any patients received radiation exposures different from those that were prescribed.

The NRC special inspection at the St. Mary facilities identified several instance where the actual therapy radiation dose may have varied from the prescribed dose by more than 10 percent. The NRC requires that a therapy radiation dose that varies from the prescribed dose by more than 10 percent be reported to the NRC and that the patient's physician be notified. Such a deviation from the prescription would be a "misadministration."

At the Porter Memorial Hospital, sufficent records were immediately available to determine if any misadministrations occurred.

The Orders did not affect other activities performed under NRC licenses issued to the three facilities, including diagnostic tests using radiopharmaceuticals and other radiation therapy programs.

Cause or Causes—The NRC inspections determined that none of the three facilities had maintained adequate records of the treatment plans and prescriptions at the facility. The inspections also determined that licensee management at each of the facilities had not taken action to assure that established procedures were followed including maintenance of required records.

At the St. Mary facilities, hospital management was notified by a staff member as early as May 1988 that appropriate records were not being maintained nor established procedures followed, but the corrective actions taken were not effective and the inadequate recordkeeping and procedural failures continued.

Six brachytherapy procedures were performed at the Porter Memorial Hospital between 1987 and 1989. The hospital's Radiation Safety Committee and Radiation Safety Officer, however, were not aware when brachytherapy treatments were being performed or when the radioactive sources for brachytherapy were ordered.

Actions Taken to Prevent Recurrence

Licensees—The two St. Mary facilities have submitted revisions to their NRC licenses to provide quality assurance procedures for brachytherapy procedures. Porter Memorial Hospital has also submitted revisions to its NRC license providing quality assurance procedures. The proposed license amendments are under review.

The two St. Mary facilities filed a request for a hearing on the NRC Order. The authorized user, who was involved in brachytherapy treatments at the facilities, also requested a hearing, and he was admitted to the proceeding as an intervenor.

The proceeding is currently pending before an Atomic Safety and Licensing Board, although settlement discussions are underway.

NRC—The NRC staff issued orders to the three facilities, suspending brachytherapy procedures at the St. Mary facilities and confirming that Porter Memorial Hospital had ceased brachytherapy treatments. The Orders also required the licensees to undertake independent evaluation of completed brachytherapy procedures to determine if the treatments were consistent with the prescribed doses and treatment plans. The licensees were also required to submit proposed license amendments to provide quality assurance procedures should they desire to continue their brachytherapy programs. The liensees were not to resume brachytherapy without NRC authorization.

90–12 Radiation Exposure of a Radiographer

One of the AO examples notes that exposure of the skin of any individual to 150 rem or more of radiation can be considered an abnormal occurrence.

Date and Place—April 6, 1990; Barnett Industrial X-Ray; Stillwater Oklahoma; the radiation overexposure occurred at a temporary jobsite in Ardmore, Oklahoma.

Nature and Probable Consequences—On the evening of April 6, 1990, the licensee notified the NRC that an incident had occurred earlier that evening while a radiographer and his assistant were working at a temporary jobsite. The radiographic operation involved the use of radiography device containing an approximately 80-curie iridium-192 sealed source. (A radiography device uses a radioactive sealed source to make x-ray-like images of welds and heavy metal objects. The position of the source is controlled by a drive cable which is used to crank the source out of the exposure device and retract it back to a shielded position within the device via an unshielded source guide tube.) The licensee reported that the source became disconnected from the drive cable and remained in the source guide tube. Unaware that the source remained in the tube, the assistant wrapped the

source guide tube around his neck while he moved equipment at the worksite. The licensee initially estimated that the assistant received an exposure of 4000 rem to the exposed area of his neck. Two NRC Region IV inspectors were dispatched the following morning to investigate the incident. The circumstance associated with the radiation overexposure are described below.

After completing two radiographs of a pipe weld, the radiographer proceeded to develop the radiographs while the assistant disassembled the equipment to move the exposure device to another location. While doing this, he moved the source guide tube and draped it around his neck so that his hands would be free to carry the remaining equipment. He walked approximately 30–50 feet before stopping to set the equipment down. As he removed the guide tube from around his neck, he noticed that the sealed source fell from the tube to the ground. The assistant notified the radiographer who telephoned the company owner and, following his direction, successfully retrieved the source to a shielded position within the exposure device. During his conversation with the owner, the radiographer identified: (1) That he failed to conduct a radiation survey of the exposure device after each of the exposures, (2) that the assistant's pocket dosimeter had gone offscale (greater than 200 millirem), and (3) that the assistant was not wearing his film badge during these operations. Under the owner's direction, the assistant was taken for medical examination at a local hospital later that evening.

Based on interviews conducted with the radiographer and company owner together with NRC reenactments of the radiographer's actions during the event, NRC inspectors determined that he might also have received an exposure in excess of regulatory limits. When the radiographer later confirmed that his pocket dosimeter had gone offscale, his film badge was sent for immediate processing. Both the assistant and radiographer were referred for examination by a radiation oncologist (a physician experienced in examining patients who have been treated with large doses of radiation) and blood samples were obtained for cytogenetic studies.

The cytogenetic studies revealed equivalent whole body doses of 17 rem for the radiographer and 24 rem for the assistant. The assistant developed an area of erythema on the left side of his neck, which later showed signs of more significant damage to skin tissue in an area approximately 10 centimeters in diameter. The oncologist determined that the observed effect corresponded to a local skin dose of 5000–7000 rem. As of June 1990, the skin tissue in this area had regenerated and the physician did not predict any long-term effects as a result of this exposure. The assistant remains under the physician's care, and the NRC continues to receive reports on his progress. There were no medical effects observed for the radiographer.

Cause or Causes—The radiographer and assistant failed to conduct a radiation survey of the exposure device after either of the exposures was completed to ensure that the source had been retracted to its shielded position. The radiographer was exposed to the unshielded source as he changed films between the two exposures, and the assistant received a large exposure as he carried the source tube containing the source draped around his neck. Without a radiation survey, neither individual was aware that the source had not been connected to the drive cable and remained in the guide tube.

Actions Taken to Prevent Recurrence

Licensee—The licensee's proposed corrective actions include retraining the radiographer in radiation safety procedures and continued observation of his performance. The assistant radiographer is no longer employed by the licensee.

NRC—During the investigation of this event, on April 2, 1990, an Order modifying the license was issued, prohibiting the radiographer and assistant from participating in licensed activities. This Order has since been relaxed due to the licensee's implementation of corrective action. NRC Region IV conducted an enforcement conference with the licensee on May 25, 1990, to discuss the event. On September 7, 1990, the NRC issued to the licensee a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of $7,500. The basis for the proposed penalty were violations associated with failure to conduct the required radiation survey and the resultant overexposures. These two violations collectively were classified as Severity Level I (on a scale of Levels I through V, in which Level I is the most significant).

90–13 Medical Diagnostic Misadministration

The general AO criterion notes that an event involving a moderate or more severe impact on public health or safety can be considered an abnormal occurrence.

Date and Place.—June 5, 1990; Mercy Memorial Medical Center; St. Joseph, Michigan.

Nature and Probable Consequences—A 79-year-old female patient was scheduled to undergo a diagnostic evaluation to determine whether she was suffering from an enlarged thyroid glad (substernal thyroid). No prescribed dose was indicated.

The scan was scheduled for the following day. The technologist, in attempting to order the proper amount of radioactive material, noted that her standard dose chart (created by authorized users) did not list dosage for a substernal thyroid gland study.

She then referred to the department's procedures manual, which indicated that the proper dose for a substernal thyroid gland study was 3–5 millicuries of iodine–131, or 100–200 microcuries of iodine–123. The technologist then asked an authorized user which isotope to use. He instructed her to order a sufficient quantity of iodine–131 to visualize the thyroid gland. On June 5, 1990, the patient was given 4.3 millicuries of iodine–131, which conformed to the procedures manual. The dosage listed in the procedure, however, was wrong. The standard dose for a substernal thyroid scan should have been 50 to 100 microcuries of iodine–131, or approximately one-fiftieth of the amount noted in the manual. The mistake was identified by the Chief of the Nuclear Medicine Department on June 6 and reported as a misadministration to the NRC on June 8, 1990.

The licensee estimated that the misadministration resulted in a mean dose to the thyroid gland of 5,752 rads. The NRC's medical consultant investigated the case. Based on certain assumptions, the consultant estimated the dose to be 3,400 rads to the thyroid gland which, according to the consultant, would yield a 10 percent chance of hypothyroidism over five years. The licensee is monitoring the patient's condition.

Cause or Causes—The Nuclear Medicine Department's procedures manual listed the wrong iodine–131 dosage for a substernal thyroid scan. The dosage was not reviewed by an authorized user prior to its administration.

Actions Taken to Prevent Recurrence

Licensee—The license has been amended to incorporate the following changes in iodine–131 procedures: (1) Two nuclear medicine technologists will independently verify the prescribed dosage and check the dose calibrator assay; (2) A written prescription by an

authorized user will be required before the procedure is carried out; and (3) Two signatures or initials will be required on all documents involving iodine–131. The licensee also corrected the department's procedures manual to reflect the proper dosage for a substernal thyroid scan. Dosage for a substernal thyroid scan also was added to the department's Standard Dose Chart.

NRC—An NRC inspection was conducted on June 19, 1990. Seven violations of NRC requirements (unrelated to this event) were identified. The licensee's corrective actions to prevent recurrence were found to be satisfactory. The NRC notified its medical consultant who reviewed the circumstances. He made certain procedural recommendations for consideration by the licensee.

90–14 Administration of Iodine–131 to a Lactating Female With Uptake by Her Infant

The general AO criterion notes that an event involving a moderate or more severe impact on public health or safety can be considered an abnormal occurrence.

Date and Place—June 18, 1990; Tripler Army Medical Center; Honolulu, Hawaii.

Nature and Probable Consequences—A nursing mother was given a 4.89 millicurie dose of iodine–131 at an NRC licensed medical facility that resulted in an unintentional radiation dose to her infant's thyroid gland estimated at 30,000 rads and a dose to the infant's whole body of 17 rads. The error was detected on June 21, 1990, when the patient returned to the medical center for a whole body scan. The scan indicated an unusually high breast uptake of iodine–131. In the opinion of the patient's physician and an NRC medical consultant, the infant's thyroid function will be completely lost. The infant will require artificial thyroid hormone medication for life to ensure normal growth and development.

Cause or Causes—The physician and nuclear medicine technologist failed to confirm that the patient was not breast feeding. The patient arrived at the medical center from a remote South Pacific island. Communication between the island physician and the Army physicians was poor and the Tripler physicians were not aware that the mother had given birth on June 1, 1990.

Actions Taken to Prevent Recurrence

Licensee—Immediately following discovery of the error the licensee began using a new questionnaire that more clearly requires the collection and documentation of information concerning patient pregnancy and breast feeding. The Commanding Officer has ordered a special investigation to define the cause and appropriate corrective actions. The licensee has contacted the patient and the patient's physician and is finalizing arrangements for long term follow-up medical care.

NRC—An Enforcement Conference was held on August 16, 1990, and enforcement action is being considered.

90–15 Medical Therapy Misadministration

The general AO criterion notes that an event involving a moderate or more severe impact on public health or safety can be considered an abnormal occurrance.

Date and Place—June 22, 1990; St. Luke's Hospital; Cleveland, Ohio.

Nature and Probable Consequences—A 57-year-old woman, being treated for lung cancer, was erroneously given a 178 rem radiation does to the left side of the head on June 22, 1990, using the licensee's cobalt-60 teletherapy unit. The patient was scheduled to receive a 200 rem radiation dose to the chest area at the time of the misadministration. The treatment was the ninth of a total of ten treatments in the series for a total of 2,000 rem to the chest. The treatment began June 11, 1990.

A technologist set the patient up for brain irradiation without looking at the treatment documents. After the left side of the head was treated, the patient asked if her chest would also be treated. At this time, the treatment staff discover the error.

Because the misadministration involved a single treatment and because of the dosage involved, no adverse medical effects are expected. Subsequent to the misadministration, the patient received the intended 200 rem radiation dose to the chest area. The tenth treatment was administered, and the patient began a second phase of 25 radiation treatments of 150 rem each to the chest area.

Cause or Causes—This misadministration was caused by the failure of the technologist to examine the treatment documentation (the setup sheet and a treatment field picture). Although the technologist had previously treated the patient, the technologist erroneously assumed the brain was the area to be treated. (The staff determined that although lung cancers of this type often do metastasize to the brain, the irradiation of the brain in this case was a misadministration nonetheless.)

Actions Taken to Prevent Recurrence

Licensee—The licensee has revised its procedures to require the verification, when circumstances permit, of the treatment setup by a second technologist using the setup documentation. All technologists have been trained in the procedure. The NRC is requesting the licensee to amend its quality assurance procedures to include dual verification of treatment setups prior to any treatment.

NRC—The NRC conducted a special inspection on June 27–29, 1990, to review the circumstances of the misadministration and to evaluate the licensee's radiation safety and management control programs. The inspection also covered an earlier therapy misadministration in which a patient received less than the intended dose. In this misadministration, a patient received a dose that was 12 per cent less than that intended during a treatment series February 15 through April 3, 1990. A Notice of Violation was issued for two instances of failure to report the misadministrations within the required time period. The inspection also identified a concern about staff shortages that may adversely affect the licensee's radiation thereapy program. The NRC requested the hospital's response to this concern.

Dated at Rockville, MD, this 19th day of October 1990.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 90–25226 Filed 10–24–90; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Meeting Agenda

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on November 8–10, 1990, in room P–110, 7920 Norfolk Avenue, Bethesda, Maryland. Notice of this meeting was published in the **Federal Register** on September 19, 1990.

Thursday November 8, 1990, room P–110, 7920 Norfolk Avenue, Bethesda, MD

8:30 a.m.–8:40 a.m.: Chairman's Remarks (Open)—The ACRS Chairman will make opening remarks and comment briefly regarding items of current interest.

8:40 a.m.–10:30 a.m.: NRC Regulatory Impact Survey (Open)—A briefing by and discussion with representatives of

the NRC staff will be held regarding proposed regulatory changes resulting from the NRC survey of the impact of regulatory requirements on the safety of nuclear power plant operations.

10:45 a.m.–11:15 a.m.: Level of Design for Standardized Nuclear Power Plants (10 CFR part 52) (Open)—A briefing and discussion will be held regarding the level of design detail appropriate for standardized nuclear plants licensed in accordance with 10 CFR part 52.

Representatives of the NRC staff and NUMARC will participate as appropriate.

11:15 a.m.–12:30 p.m.: Preparation for Meeting With NRC Commissioners (Open)—The Committee will discuss topics selected for discussion regarding nuclear facility regulation and safety and related activities of the ACRS and the Commission.

2 p.m.–3:30 p.m.: Meeting with NRC Commissioners (First Floor Commissioners' Conference Room, One White Flint North, Rockville, MD (Open)—The Committee will meet with the Commissioners to discuss the selected topics.

4 p.m.–4:45 p.m.: Future ACRS Activities (Open)—The Committee will discuss the scope and nature of ACRS activities, including anticipated activities of ACRS subcommittees, items proposed for consideration by the full Committee, and proposed ACRS meeting dates for Calendar Year 1991.

4:45 p.m.–6 p.m.: Discuss Proposed ACRS Report to the NRC (Open)—The members will discuss a proposed report to the NRC regarding NUREG–1150, Severe Accident Risks: An Assessment for Five U.S. Nuclear Power Plants, and other items considered during this meeting.

Friday, November 9, 1990, room P–110, 7920 Norfolk Avenue, Bethesda, MD

8:30 a.m.–10 a.m.: Combustion Engineering System 80+ (Open/Closed)—A presentation and discussion will be held regarding NRC staff comments and recommendations (SECY–90–353) on the proposed License Review Basis document for this standardized nuclear power plant design.

Members of the NRC staff and representatives of the applicant will participate as appropriate.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this facility design.

10:15 a.m.–12 Noon and 1 p.m.–1:45 p.m.: Proposed Final Rule—10 CFR part 55, Fitness for Duty Requirements for Licensed Operators (Open)—A presentation and discussion will be held regarding proposed final rule—10 CFR part 55, Fitness for Duty Requirements for Licensed Operators.

Members of the NRC staff and NUMARC will participate as appropriate.

2 p.m.–3:30 p.m.: Biological Effects of Ionizing Radiation (Open)—A briefing and discussion will be held regarding Report No. V of the BEIR Committee on the effects on populations of exposures to low levels of ionizing radiation.

3:30 p.m.–6 p.m.: Westinghouse SP/90 Standardized Nuclear Plant Design—(Open/Closed)—A report will be given and a discussion will be held on the proposed Preliminary Design Approval for this standardized nuclear plant design.

Members of the NRC staff and representatives of the applicant will participate as appropriate.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this facility design.

Saturday, November 10, 1990, room P–110, 9720 Norfolk Avenue, Bethesda, MD

8:30 a.m.–12 Noon: Preparation of ACRS Reports (Open)—The Committee will discuss proposed reports to the NRC regarding items considered during this meeting and previous meetings to the degree that the availability of information and time permit.

1 p.m.–1:45 p.m.: ACRS Subcommittee Activities (Open)—The members will hear and discuss the reports of subcommittee activities in designated areas, including reconstitution of design basis documentation, interfacing systems loss of coolant accidents, and the development of containment design criteria for advanced reactors.

1:45 p.m.–2:15 p.m.: ACRS Procedures and Practices (Open)—The Committee will hold a discussion regarding revised ACRS Bylaws and related aspects of Committee operations.

2:15 p.m.–2:30 p.m.: Appointment of ACRS Member (Open/Closed)—The Committee will discuss the status of the selection of a nominee to fill a forthcoming vacancy on the Committee.

This session will be closed to discuss information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

2:30 p.m.–3 p.m.: Miscellaneous (Open)—The members will complete discussion of items considered during this meeting.

Procedures for the conduct of and participation in ACRS meetings were published in the Federal Register on October 2, 1990 (55 FR 40249). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with subsection 10(d) Public Law 92–463 that it is necessary to close portions of this meeting noted above to discuss Proprietary Information applicable to the matters being considered (5 U.S.C. 552b(c)(4)) and information the release of which would represent an unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 301/492–8049), between 7:45 a.m. and 4:30 p.m.

Date: October 19, 1990.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 90–25224 Filed 10–24–90; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–322–OLA and ASLBP No. 91–621–01–OLA]

Long Island Lighting 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 to preside over the following proceeding.

Long Island Lighting Company

Shoreham Nuclear Power Station, Unit 1
Facility Operating License No. NPF–82

This Atomic Safety and Licensing Board is being designated pursuant to the provisions of a Memorandum and Order issued by the Commission on October 17, 1990 with respect to six petitions to intervene and requests for hearings related to various actions taken by the NRC Staff and the Long Island Lighting Company (LILCO) concerning the Shoreham Nuclear Power Station.[1] CLI–90–08, 32 NRC (1990). In its Memorandum and Order the Commission determined that the National Environmental Policy Act and the Atomic Energy Act of 1954, as amended, do not require the NRC to consider "resumed operation" as an alternative to decommissioning. The Commission forwarded the six petitions to the Atomic Safety and Licensing Board with directions to "review and resolve all other aspects of these hearing requests in a manner consistent with this opinion."

The Board is comprised of the following administrative judges:

Morton B. Margulies, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

George A. Ferguson, 5307 A1 Jones Drive, Columbia Beach, MD 20764.

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 18th day of October 1990.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 90–25225 Filed 10–24–90; 8:45 am]

BILLING CODE 7590–01–M

[1] On April 18, 1990, each of two organizations, the Scientists and Engineers for Secure Energy ("SE2") and the Shoreham-Wading Central School District ("Shoreham-Wading"), filed a "Petition to Intervene and Request for Hearing" in response to the NRC's March 29, 1990 Confirmatory Order which prohibited LILCO from placing any nuclear fuel in the Shoreham reactor vessel without prior approval from the NRC. 55 Fed. Reg. 12758 (April 5, 1990).

On April 20, 1990, SE2 and Shoreham-Wading each filed a "Petition to Intervene and Request for Hearing" in response to a notice the Staff had previously published announcing that LILCO had requested an amendment to the Shoreham operating license allowing changes in the physical security plan for the plant. 55 FR 10528, 10540 (March 21, 1990). The Notice contained the Staff's proposed finding that the amendment "did not involve a significant hazards consideration."

Subsequently, the Staff published another Federal Register Notice announcing (1) LILCO's request for an amendment to its license removing certain license conditions regarding offsite emergency preparedness activities, and (2) the Staff's proposed finding of "No Significant Hazards Consideration." 55 FR 12076 (March 30, 1990). On April 30, 1990, SE2 and Shoreham-Wading each filed a "Petition to Intervene and Request for Hearing" regarding this proposed amendment. Both the Staff and LILCO have responded to all three sets of petitions.

[Docket No. 50–029]

Yankee Atomic Electric Co. (Yankee Nuclear Power Station); Exemption

I

Yankee Atomic Electric Company (YAEC or the licensee) holds Facility Operating License No. DPR–3 which authorizes the operation of the Yankee Nuclear Power Station (Yankee or the facility) at steady-state power levels not in excess of 600 megawatts thermal. This license provides, among other things, that the facility is subject to all rules, regulations and Orders of the U.S. Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facility is a pressurized water reactor located at the licensee's site near Rowe, Massachusetts.

II

The Code of Federal Regulations, in § 55.59(c)(3)(i), "On the job training" requires that each licensed operator and senior operators of a utilization facility must perform certain manipulations annually. Additionally, § 55.59(c)(3)(v) allows a simulator to be used in those manipulations.

By letter dated August 2, 1990, the Yankee Atomic Electric Company (the licensee) requested a one-time exemption from the requirement in 10 CFR 55.59(c)(3)(i)(A)-(L) to conduct annual simulator training of reactor operators and senior reactor operators on certain control manipulations. Simulator training of Yankee-Rowe licensed operators was last conducted on a non-plant specific simulator from September 1989 to October 1989. Yankee-Rowe anticipates having a plant specific simulator available for operator training on or about October 1, 1990. The required training would commence when the simulator is available, and the required training in control manipulations would be completed by March 1, 1991. The exemption from the requirements of the regulations would therefore be for a period of about five months.

Immediate compliance with the annual training requirement would entail all the licensed operators traveling to a non-plant specific simulator in Illinois and covering all twelve evolutions in a time span of 30 hours of simulator time for each crew. With the imminent arrival of the plant specific simulator, the licensee believes more effective and thorough training can be provided using the combination of control room based job performance measures, static simulator walkthroughs and, once it is available for training, the plant specific simulator.

Requiring the licensee's operators to travel to the non-plant specific simulator would result in the completion of the simulator training on time. However, since the quality of the training the operators would receive by performing the control manipulations on a plant specific simulator would be higher, it would be in the public interest to grant this exemption.

The Staff has reviewed the licensee's request for exemption and finds that since a plant specific simulator will be available on site in the very near future, requiring the licensee to meet the annual requirement to perform the control manipulations of 10 CFR 55.59(c)(3)(i)(A)-(L) on a non-plant specific simulator would not enhance the protection of the environment and would result in an expenditure of licensee resources not required for public health and safety.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission has further determined that special circumstances, as set forth in 10 CFR 50.12(a)(2)(v), are present justifying the exemption, namely that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. Therefore, the Commission hereby grants an exemption from the requirements of 10 CFR 55.59(c)(3)(i)(A)-(L).

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the environment (55–FR–42523).

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 19th day of October, 1990.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90-25223 Filed 10-24-90; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Compliance Supplement for Single Audits of State and Local Governments

AGENCY: Office of Management and Budget.

ACTION: Notice of availability of Compliance Supplement for single audits of State and local governments.

SUMMARY: This Notice indicates the availability of a revised Compliance Supplement which sets forth the major compliance requirements that should be considered by independent auditors in making organization-wide audits of State and local governments. It replaces the "Compliance Supplement for State and Local Governments" issued in April 1985.

DATES: The Compliance Supplement is effective immediately.

FOR FURTHER INFORMATION CONTACT: Palmer Marcantonio, FInancial Management Division, 10235 NEOB, OMB, Washington, DC 20503 (Telephone: 202-395-3993).

SUPPLEMENTARY INFORMATION: The "Compliance Supplement for Single Audits of State and Local Governments" contains major compliance requirements which, if not observed, could have a material effect on Federal programs. Each compliance requirement is accompanied by suggested audit procedures that may be used to test for compliance. These are not the only procedures an auditor may use, nor are they mandatory procedures. Auditors should apply professional judgment in choosing a procedure to decide the extent of reviews and tests performed.

The Federal departments and agencies have identified the compliance requirements and have suggested for each program audit procedures that will meet the compliance testing requirements of OMB Circular A-128, "Audits of State and Local Governments." However, the auditor is responsible for ensuring that specific requirements which are modified because of changes in laws or regulations are included in the audit procedures.

The Compliance Supplement may be purchased from the Government Printing Office. OMB will not have a supply for distribution.

Richard G. Darman,

Director.

[FR Doc. 90-25186 Filed 10-24-90; 8:45 am]

BILLING CODE 3110-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Power Plan Amendments, Columbia River Basin Fish and Wildlife Program

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of proposed wildlife amendments to the Columbia River Basin Fish and Wildlife Program (Dworshak and Minidoka wildlife amendments).

SUMMARY: On November 15, 1982, pursuant to the Pacific Electric Power Planning and Conservation Act (the Northwest Power Act, 16 U.S.C. section 839, *et seq.*) the Pacific Northwest Electric Power and Conservation Planning Council (Council) adopted a Columbia River Basin Fish and Wildlife Program (program). The program has been amended from time to time since then. In 1989, the Council amended the program to establish wildlife mitigation goals and a process for adopting wildlife loss estimates developed by wildlife agencies and Indian tribes as starting points for wildlife mitigation measures. To be used as starting points, loss estimates must first be amended into the Council's program.

On October 10, 1990, the Council voted to initiate proceedings pursuant to section 4(d)(1) of the Northwest Power Act to consider amending the program to include wildlife loss estimates for the Dworshak and Minidoka hydroelectric projects. Comments are solicited on the proposed amendments. This notice describes how to obtain a full copy of the proposed amendments and background information concerning them, and explains how to participate in the amendment process.

PUBLIC COMMENT: All written comments must be received in the Council's central office, 851 SW Sixth Avenue, suite 1100, Portland, Oregon, 97204, by 5 p.m. Pacific time on February 11, 1991. Comments should be submitted to Dulcy Mahar, Director of Public Involvement, at this address. Comments should be clearly marked "Dworshak-Minidoka Wildlife Comments."

After the close of written comment, and up to the time of the Council's final decision on the proposed amendments, the Council may hold consultations with interested parties to clarify points made in written comment.

HEARINGS: Public hearings will be held in conjunction with the regularly scheduled Council meetings as follows:

November 15, 1990, at the Park Plaza Hotel, Helena, Montana;

December 13, 1990, at the Council's central office, 851 SW. Sixth Ave., Portland, Oregon;

January 10, 1991, in Idaho, location to be announced;

February 14, 1991, in Washington, location to be announced. Specific locations for the January and February hearings will be announced in the Council's Update! publication.

To reserve a time period for presenting oral comments at a hearing, or for further information on hearing times and locations, contact Judy Gibson in the Council's Public Involvement Division, 851 SW. Sixth Avenue, suite 1100, Portland, Oregon 97204 or (503) 222-5161, toll free 1-800-222-335 in Idaho, Montana, and Washington or 1-800-452-2324 in Oregon. Requests to reserve a time period for oral comments must be received no later than two work days before the hearing.

FINAL ACTION: The Council expects to take final action on the proposed wildlife amendments at its March 1991 meeting. The actual date on which the Council will make its final decision will be announced in accordance with applicable law and the Council's practice of providing notice of its meeting agendas.

FOR FURTHER INFORMATION: The Council's wildlife mitigation process is explained in a document called "Wildlife Mitigation Rule and Response to Comments," paper no. 89-35. This paper explains the nature of wildlife loss estimates and the role they play in the Council's wildlife program. In addition, the Council has prepared a short paper, called "Dworshak and Minidoka Wildlife Loss Summaries," which summarizes the loss estimates involved in this amendment process, and contains an actual draft of the proposed program amendments. Finally, the loss estimates themselves, entitled "Wildlife Protection, Mitigation, and Enhancement Planning, Dworshak Reservoir," and "Minidoka Dam Wildlife Impact Assessment" are available from the Council upon request. Those wishing to receive copies of any of these papers should contact the Council's Public Involvement Division at

the address or telephone numbers listed above.

Edward Sheets,

Executive Director.

[FR Doc. 90-25246 Filed 10-24-90; 8:45 am]

BILLING CODE 0000-00-M

DEPARTMENT OF STATE

[Public Notice 1280]

Advisory Committee on Historical Diplomatic Documentation; Meeting

The Advisory Committee on Historical Diplomatic Documentation will meet on November 15, 1990, at 9 a.m. in room 1205 of the Department of State.

The Advisory Committee advises the Bureau of Public Affairs, and in particular the Office of the Historian, concerning problems related to the preparation of the documentary series entitled Foreign Relations of the United States and other responsibilities of that Office.

In accordance with section 10(d) of the Advisory Committee Act (Pub. L. 92-463) it has been determined that certain discussions during the meeting will necessarily involve consideration of matters recognized as not subject to public disclosure under 5 U.S.C. 552(b)(c)(1), and that the public interest requires that such activities will be withheld from disclosure. The meeting will therefore be closed when such discussions take place from 2 p.m. to 5 p.m. on Thursday, November 15 and all day Friday November 16.

Persons wishing to attend the open portion of the meeting should come before 9 a.m. on November 15 to the Diplomatic Entrance of the Department of State at 22nd and C Streets, NW., Washington, DC. They will be escorted to room 1205 and at the conclusion of the open portion of the meeting escorted back to the Diplomatic Entrance.

Questions concerning the meeting should be directed to William Z. Slany, Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian, Washington, DC 20520, telephone (202) 663-1122.

Dated: October 18, 1990.

William Z. Slany,

Executive Secretary.

[FR Doc. 90-25253 Filed 10-24-90; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Announcement of the Seventh Meeting of the Motor Vehicle Safety Research Advisory Committee

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Meeting announcement.

SUMMARY: This notice announces the seventh meeting of the Motor Vehicle Safety Research Advisory Committee (MVSRAC). The Committee was established in accordance with the provisions of the Federal Advisory Committee Act to obtain independent advice on motor vehicle safety research. At this meeting the Committee will discuss research matters relating to pedestrian protection, biomechanics, data collections, and the advanced driving simulator.

DATE AND TIME: The meeting is scheduled to begin at 10 a.m. on Thursday, November 15, 1990, and conclude at 5:50 p.m. that afternoon.

ADDRESSES: The meeting will be held in room 9230 of the U.S. Department of Transportation Building, which is located at 400 Seventh Street, SW., Washington, DC.

SUPPLEMENTARY INFORMATION: In May 1987, the Motor Vehicle Safety Research Advisory Committee was established. The purpose of the Committee is to provide an independent source of ideas for motor vehicle safety research. The MVSRAC will provide information, advice, and recommendations to NHTSA on matters relating to motor vehicle safety research, and provide a forum for the development, consideration and communication of motor vehicle safety research, as set forth in the MVSRAC Charter.

The meeting is open to the public, but attendance may be limited due to space availability. Participation by the public will be determined by the Committee Chairman.

A public reference file (Number 88-01) has been established to contain the products of the Committee and will be open to the public during the hours of 9:30 a.m. to 4 p.m. at the National Highway Traffic Safety Administration's Technical Reference Division in room 5108 at 400 Seventh Street, SW., Washington, DC 20590, telephone: (202) 366-2768.

FOR FURTHER INFORMATION CONTACT: Mary Coyle, Office of Research and Development, 400 Seventh Street. SW., room 6206, Washington, DC 20590, telepohone: (202) 366-5926.

Issued on: October 19, 1990.

George L. Parker,

Chairman, Motor Vehicle Safety Research Advisory Committee.

[FR Doc. 90-25205 Filed 10-24-90; 8:45 am]

BILLING CODE 4910-50-M

Announcement of Seventh Meeting of the Heavy Truck Subcommittee of the Motor Vehicle Safety Resaearch Advisory Committee

AGENCY: National Highway Traffic Safety Administraiton (NHTSA), DOT.

ACTION: Meeting announcement.

SUMMARY: This notice announces the seventh meeting of the Heavy Truck Subcommittee of the Motor Vehicle Safety Research Advisory Committee (MVSRAC). The MVSRAC established this subcommittee at the February 1988 meeting to examine research questions regarding crashworthiness and crash avoidance for vehicles over 10,000 pounds GVWR.

DATE AND TIME: The meeting is scheduled for Wednesday, November 14, 1990, from 10 a.m. until 4 p.m.

ADDRESS: The meeting will be held in Room 4436 of the U.S. Department of Transportation Building, which is located at 400 Seventh Street SW., Washington, DC.

SUPPLEMENTARY INFORMATION: In May 1987, the Motor Vehicle Safety Research Advisory Committee was established. The purpose of the Committee is to provide an independent source of ideas for safety research. The MVRSAC will provide information, advice, and recommendations to NHTSA on matters relating to motor vehicle safety research and provide a forum for the development, consideration, and communication of motor vehicle safety research, as set forth in the MVSRAC Charter.

At this meeting the subcommittee will discuss the possible safety implications of allowing longer and heavier trucks to be used on a more widespread basis than that which is currently permitted.

The meeting will use, as a departure point for discussions, two recently completed Transportation Research Board (TRB) studies, one titled, "Heavy Truck Weight Study," and the other, "New Trucks for Greater Productivity and Less Road Wear—An Evaluation of the Turner Proposal." Both studies describe the varying amount of productivity enhancement that could be obtained by allowing, on a nationwide special permitting basis, different configurations of heavy trucks (primarily long multiple trailer

combinations) to carry more freight on a given trip. Both studies describe the economic (including modal shifts), bridge and pavement wear, traffic operations, and vehicle dynamic performance effects of allowing larger trucks. Both studies offer prescriptive recommendations for balancing potentially negative concerns relative to these later issues, against the positive productivity benefits that could be obtained.

The meeting will begin with informal presentations by TRB staff describing the key points of the two studies; Federal Highway Administration (FHWA)/Office of Policy Development staff describing their ongoing analyses of truck size and weights related issues; NHTSA research staff describing vehicle dynamic and operational safety performance concerns related to the use of larger trucks; American Trucking Association Trucking Research Institute staff describing the results of a study it sponsored on the "Productivity and Consumer Benefits of Longer Combination Vehicles;" and a representative from the Freightliner Corporation describing the results of that company's analysis of the implications of the TRB studies relative to heavy truck design.

Following these presentations, the subcommittee members and audience will be given an opportunity to offer suggestions to NHTSA relative to research topics it may wish to consider conducting relative to this issue.

The meeting is open to the public, and participation by the public will be determined by the Subcommittee Chairman.

A public reference file (Number 88–01—Heavy Truck Subcommittee) has been established to contain the products of the subcommittee and will be open to the public during the hours of 8 a.m. to 4 p.m. at the National Highway Traffic Safety Administration's Technical Reference Division in room 5108 at 400 Seventh Street SW., Washington, DC 20590, telephone: (202) 366–2768.

FOR FURTHER INFORMATION CONTACT: William A. Leasure, Jr., Chairman, Heavy Truck Subcommittee, Office of Research and Development, 400 Seventh Street SW., Room 6220, Washington, DC 20590, telephone: (202) 366–5662.

George L. Parker,

Chairman, Motor Vehicle Safety Research Advisory Committee.

[FR Doc. 90–25276 Filed 10–24–90; 8:45 am]

BILLING CODE 4910–59–M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 207
Thursday, October 25, 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).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 2:00 p.m. (Eastern Time), Tuesday, November 6, 1990.

PLACE: Conference Room on the Ninth Floor of the EEOC Office Building, 1801 "L" Street, N.W., Washington, D.C. 20507.

STATUS: Part of the Meeting will be Open to the Public and Part will be Closed to the Public.

MATTERS TO BE CONSIDERED:

Open Session

1. Announcement of Notation Vote(s).
2. A Report on Commission Operations.

Closed Session

1. Litigation Authorization: General Counsel Recommendations
2. Agency Adjudiciation and Determination on the Record of Federal Agency Discrimination Complaint Appeals

Note: Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the Federal Register, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 663-7100 at any time for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 663-7100.

Dated: October 23, 1990.

This Notice Issued October 23, 1990.

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 90-25419 Filed 10-23-90; 1:50 pm]

BILLING CODE 6750-06-M

FEDERAL ELECTION COMMISSION

"FEDERAL REGISTER" NUMBER: 90-24806.

PREVIOUSLY ANNOUNCED DATE AND TIME:

Thursday, October 25, 1990, 10:00 a.m.
Meeting Open to the Public
This Meeting Has been Cancelled.

DATE AND TIME: Tuesday, October 30, 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, November 1, 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
Advisory Opinion:
1990-19—Gordon M. Strauss on behalf of the Suarez Corporation
1990-23—Donald J. Simon on behalf of Representative Martin Frost of Texas
Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Press Officer, Telephone: (202) 376-3155.

Delores Harris,

Administrative Assistant, Office of the Secretariat.

[FR Doc. 90-25431 Filed 10-23-90; 2:48 pm]

BILLING CODE 6715-01-M

Corrections

Federal Register
Vol. 55, No. 207
Thursday, October 25, 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

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Correction

In notice document 90-24252 beginning on page 41736 in the issue of Monday, October 15, 1990, make the following correction:

On page 41737, in the second column, in the first full paragraph, in the ninth line "date" should read "data".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611, 672, and 675

[Docket No. 900833-0233]

RIN 0648-AD18

Foreign Fishing; Groundfish of the Gulf of Alaska, Groundfish Fishery of the Bering Sea and Aleutian Islands Area

Correction

In proposed rule document 90-21950 beginning on page 38347 in the issue of Tuesday, September 18, 1990, make the following corrections:

1. On page 38347, in the 2nd column, under "**SUPPLEMENTARY INFORMATION**", in the 2nd paragraph, in the 12th line "dn" should read "and".

2. On the same page, in the 3rd column, in the 32nd line, "groundfish" was misspelled.

3. On page 38352, in the 2nd column, in the 17th line from the bottom, "DPA" should read "DAP".

4. On page 38353, in the 2nd column, 28 lines from the bottom of the page, the heading should read "Biodegradable Panels on Groundfish Pots".

5. On page 38354, in the third column, in the fifth line, "panel" should read "panels".

6. On page 38357, in the second column, in amendatory instruction 7., in the second line "August 7, 1990" should read "August 17, 1990".

§ 675.2 [Corrected]

7. On page 38358, in the second column, in § 675.2, in the definition for "Bycatch Limitation Zone 2", in the table, after the third entry, insert "60°00'" and "171°00'" in the first and second columns, respectively.

§ 675.2 [Corrected]

8. On the same page, in the same section, in the third column, in the ninth line of the definition for "Pelagic trawl", "(l2 inches)" should read "(12 inches)".

§ 675.20 [Corrected]

9. In § 675.20(a)(7), on page 38359, in the 1st column, in the 13th line from the top of the page, "January l" should read "January 1".

§ 675.21 [Corrected]

10. On the same page, in the same column, under § 675.21(a), in the fourth line "Zone l" should read "Zone 1".

§ 675.26 [Corrected]

11. On page 38361, in the second column, under § 675.26(d)(1)(i), in the sixth line, "notify" was misspelled

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ES91-01-000 et al.]

Louisville Gas and Electric Co. et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Correction

In notice document 90-24504 beginning on page 42245 in the issue of Thursday, October 18, 1990, make the following correction:

On page 42245, in the second column, under **1. Louisville Gas and Electric Company**, the docket number should read "ES91-01-000".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPP-66144; FRL 3803-8]

Amitrole; Receipt of Request to Cancel Registrations

Correction

In notice document 90-24205 beginning on page 41763, in the issue of Monday, October 15, 1990, make the following correction:

On page 41764, in the first column, in the file line at the end of the document, "FR Doc. 90-24206" should read "FR Doc. 90-24205".

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Air Act

Correction

In notice document 90-24379 beginning on page 42080, in the issue of Wednesday, October 17, 1990, make the following correction:

On page 42081, in the first column, in the file line at the end of the document, "FR Doc. 90-24378" should read "FR Doc. 90-24379".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 38, 54, 98, and 151

[CGD 85-061]

RIN 2115-AC18

Intervals for Required Internal Examination and Hydrostatic Testing of Pressure Vessel Type Cargo Tanks on Barges

Correction

In rule document 90-22558 beginning on page 41916, in the issue of Tuesday, October 16, 1990, make the following correction:

On page 41918, in the third column, in the file line at the end of the document, "FR Doc. 90-22588" should read "FR Doc. 90-22558".

BILLING CODE 1505-01-D

Federal Register

Thursday
October 25, 1990

Part II

Department of Health and Human Services

Food and Drug Administration

21 CFR Parts 1000 and 1002

Records and Reports Regulations for Radiation Emitting Electronic Products; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 1000 and 1002

[Docket No. 82N-0273]

Records and Reports Regulations for Radiation Emitting Electronic Products

AGENCY: Food and Drug Administration HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend its regulations regarding the requirements for recordkeeping and reporting of adverse experiences and other information relating to radiation emitting electronic products. The kinds of information to be maintained and submitted by manufacturers will be defined more clearly. The timing and content of certain reports will be revised to enhance the usefulness of the information. The purpose of these proposed changes is to improve the protection of the public health while also reducing the regulatory burden on manufacturers, dealers, and distributors of radiation emitting electronic products.

DATES: Comments by January 22, 1991. FDA proposes that any final rule based on this proposal become effective 30 days after date of publication in the **Federal Register.**

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

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

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601) and Executive Order 12291 require FDA to periodically conduct a comprehensive review of existing regulations. This review is to analyze alternative regulatory approaches and to identify regulations that need to be revised or revoked because they impose an unnecessary burden on specific segments of the public, such as manufacturers, dealers, or small businesses, or the general public. In the **Federal Register** of July 14, 1981 (46 FR 36333), FDA announced its plan to undertake a systematic review of existing regulations and requested the submission of data, information, and views concerning a priority order for the review. In the **Federal Register** of July 2, 1982 (47 FR 29004), FDA announced its plan to review the records and reports regulations in 21 CFR Part 1002. FDA recognized that, although 21 CFR Part 1002 does not appear to have a major impact on the overall radiation emitting electronic products industry, its impact on industry, especially on small manufacturers, should not be overly burdensome and should be determined.

On November 16, 1982, FDA published a **Federal Register** notice (47 FR 51706) that invited the public to submit comments, data, and information regarding the agency's assessment of the benefit, economic cost, and need to revise the regulations at Part 1002. FDA also invited comments on several alternative approaches for minimizing regulatory burdens while protecting the public from radiation emitting electronic products. The comment period ended on February 14, 1983. FDA convened an internal task force that reviewed the regulations, analyzed the comments, and prepared recommendations for further agency action.

FDA received 12 comments in response to the July 14, 1981, **Federal Register** notice and 40 comments in response to the November 16, 1982, notice. In general, these comments acknowledged the need to revise the recordkeeping and reporting regulations in order to be more effective and to reduce the regulatory burden on industry.

FDA responded to these comments through a **Federal Register** notice of July 1, 1985 (50 FR 27024), announcing that the task force's report, entitled "Report of the CDRH Task Force for Retrospective Review of the Recordkeeping and Reporting Requirements," was available for public comment and review. The report was divided into five sections. Each section included background information, summarized comments received in response to the previous **Federal Register** notices, and offered conclusions and recommendations. Section 1.0 "Introduction and Background," provided general information and discussed several relevant record and reporting regulations in 21 CFR parts 1000 and 1002. This section also summarized criteria used by the task force to review the regulations. Section 2.0, "General Provisions/Product Listing and Records Requirements," discussed issues relating to general provisions of the regulations as well as sections dealing with manufacturer, dealer, and distributor records. Section 3.0, "Reporting Requirements," addressed various reports, such as initial reports, model change reports, and annual reports. Section 4.0, "Exemptions," covered conditions and criteria for exemptions from the annual reporting and recordkeeping requirements. Section 5.0, "Economic Anaylsis," discussed the current regulations' economic impacts and estimated the economic effec' the recommended changes would have on industry.

A. Task Force Findings and Recommendations

The task force found that:

1. Records and reports are generally of value in enforcing the Radiation Control for Health and Safety Act (the Act). However, the value of each requirement varies among products and manufacturers. Products whose records and reports are found to be of little or no benefit to protecting the public health should be exempt from the requirements.

2. The list of products for which records and reports are required can be reduced.

3. Information required in the reports can be reduced or simplified for some products.

4. The dollar value for products exempted from purchaser recordkeeping requirements need not be increased above the present $50. Criteria other than product cost provide a more appropriate basis for granting such exemptions.

5. The estimated aggregate economic cost of the Records and Reports Regulations, part 1002, is about $40 million. This amount exceeds the Regulatory Flexibility Act's operational threshold of $1 million, but is less than the $100 million major economic impact threshold of Executive Order 12291.

6. The estimated savings to industry of the reduced records and reporting recommended by the task force is $3.6 million, of which $3.1 million is attributable to deletion of dealer and distributor maintained purchaser records.

The task force also recommended numerous changes such as changing the reporting and recordkeeping requirements for specific, selected products; defining or redefining certain terms; and creating or revising reports to clarify agency requirements, avoid duplication of information, and optimize regulatory review. This proposal is intended to implement the task force's recommendations.

FDA received only one comment in response to the July 1, 1985, **Federal Register** notice announcing the availability of the task force's report. The comment supported the concept of

reporting and recordkeeping requirements for radiation emitting electronic products as being beneficial to public health and safety. The comment also indicated that most of the affected industries would benefit from the task force's recommendations and efforts to simplify reporting requirements but expressed some concern with regard to the X-ray industry. As each of the proposed regulation changes is explained, this comment will be discussed in detail.

FDA recognizes that, for some products, meeting the full recordkeeping and reporting requirements is not necessary in all instances to protect the public health. In this regard, FDA is proposing that the record and reporting requirements for some products be reduced and that, in other products, an abbreviated report serve as sufficient regulatory monitoring. FDA also recognizes that some sections of the regulations need additional clarification to be more meaningful. Thus, to address these concerns and to implement the task force's recommendations, FDA is proposing the following amendments:

B. Proposed Table Format

FDA is proposing to amend part 1002 to simplify the applicability of the recordkeeping and reporting requirements into a new table format. This new table format would eliminate some requirements, clarify others, and combine reporting requirements into one table. This proposal provides more guidance and regulatory flexibility in the recordkeeping and reporting requirements. Because of the new table format, FDA proposes to remove § 1002.61 *List of specific product groups* in subpart G.

C. Reducing the Reporting and Recordkeeping Complexity

To simplify the reporting and recordkeeping requirements, FDA is proposing to remove and transfer the requirements for selected products.

The range of electronic products marketed today is diverse with regard to radiation emission levels, sales volume, product complexity, and consumer use. The public health significance of these products also varies greatly, and so FDA is proposing that the reporting requirements for some of these products be tailored to address these concerns. In general, reporting requirements will be greater for those products that emit the highest radiation levels and/or are sold in the largest quantities, thus presenting the greatest potential risks to public health. For those products that present the least public health risk, FDA proposes a reduced reporting requirement. The proposed changes are:

1. Remove the following products from all of the record and reporting requirements of Part 1002 with the exception of an accidental radiation occurrence report that has not been exempted under § 1002.50 or § 1002.51: (a) High-voltage vacuum switches, (b) rectifiers, (c) shunt tubes, and (d) cathode ray tubes.

2. Transfer the following products from the requirements for initial reports (proposed to be called "product reports") and supplemental reports to abbreviated reports (proposed elsewhere in this proposal). These products include: (a) diagnostic X-ray tables, cradles, film changers, certain cassette holders, cephalometric devices, and image receptor support devices for mammography, (b) medical X-ray systems other than diagnostic, (c) analytical and industrial X-ray systems, (d) microwave diathermy devices, (e) microwave heating, drying, and security systems (RF) sealers, (f) R type mercury vapor lamps, (g) nonmedical ultrasound products, (h) certain television products, and (i) RF sealers, electromagnetic induction heating systems operating between 2 and 500 megahertz.

3. As an alternative to the full reporting requirements of § 1002.10 *Initial reports* and § 1002.11 *Annual reports*, FDA is proposing to transfer some reporting requirements to a new category that will be listed in Table 1, "Abbreviated Reports" in § 1002.1. FDA recognizes that, for certain products, especially those for which an exemption has been granted from initial, model change, and annual reporting, compliance with the abbreviated report requirements (proposed elsewhere in this rule) in lieu of the full reporting requirements will be satisfactory. This proposal, however, contains a provision that will allow FDA to request additional information if necessary.

FDA received one comment that urged it not to rename the recordkeeping and reporting provisions in the regulation. This comment said that manufacturers have spent considerable time and money familiarizing their staff with the specifics of the current regulation so that changes in any section title would cause confusion and unnecessary problems.

FDA recognizes that, as with any new proposal, manufacturers may need some training in order to appreciate and understand the changes. The change in this respect is to shorten the reporting requirements by clearly describing which reports are required, when a report is to be filed, and what should be in a report. FDA believes that the proposal's long-term benefits—clearer regulatory requirements, a reduced regulatory burden on industry, and improved cost effectiveness and efficiency—outweigh its short-term training costs.

4. Remove certain products fror the requirements of "supplemental reports" but not from those of "product reports." Additional information could be obtained through the review process for the product reports, but routine submissions will be discouraged unless a major change in product design or testing warrants a new product report. These products include: (a) television receivers emitting less than 0.1 milliroentgen ($_{m}$R) per hour under certain test conditions; (b) class I, II, IIa, and IIIa lasers and class I products containing such lasers; and (c) sunlamps (not products containing such lamps).

5. Remove certain products from the requirements for annual reporting. These products include: (a) X-ray high voltage generators, diagnostic X-ray cradles, X-ray tables, film changers, vertical cassette holders, cephalometric devices manufactured after February 25, 1978, image receptor support devices for mammographic X-ray systems manufactured after September 5, 1978, and medical X-ray products other than diagnostic products; (b) analytical and industrial X-ray systems; (c) RF sealers; (d) sunlamps (not products containing such lamps); (e) R type mercury vapor lamps; and (f) microwave diathermy devices.

Other products are already not subject to the requirements for annual reporting. These products include: optical phototherapy products; microwave heating, drying, and security systems; and medical and nonmedical ultrasound.

6. Remove certain products from the requirements of maintaining manufacturers' testing and distribution records. These products include: (a) Television receivers emitting less than 0.1 $_{m}$R per hour under certain test conditions, (b) microwave diathermy devices, (c) RF sealers, and (d) mercury vapor lamps and sunlamps.

Other products are already not subject to the requirements for maintaining manufacturers testing and distribution records. These products include: television receivers; microwave diathermy; microwave heating, drying, and security systems; optical phototherapy; and medical and nonmedical ultrasound.

7. Remove certain products from the requirements for dealers and distributors to maintain distribution

records. These products include: (a) diagnostic X-ray cradles, film changers, cephalometric devices manufactured after February 25, 1978, image receptor support devices for mammographic X-ray systems manufactured after September 5, 1978, tube housing assemblies, X-ray tables, and cabinet X-ray systems other than baggage inspection; (b) television receivers, (c) class I, II, IIa, IIIa lasers and class I products containing such lasers, (d) sunlamps (not products containing such lamps), (e) mercury vapor lamps (both R and T types), and (f) microwave ovens.

Other products are already not subject to the requirements for dealers and distributors to maintain distribution records. These products include: medical X-ray products other than diagnostic; analytical and industrial X-ray systems; microwave diathermy; microwave heating, drying, and security systems; RF sealers; optical phototherapy; and medical and nonmedical ultrasound.

A minor change is also proposed for cathode ray tubes. In Table 1 in § 1002.1, the proposal divides cathode ray tube voltages consistent with those used for television receivers.

D. Definitions

FDA is proposing to amend and combine the definitions relevant to records and reports contained in § 1002.2 with the definitions at § 1000.3. Section 1000.3 will be clarified and amended to contain definitions that will be applicable throughout "Subchapter J—Radiological Health" of the regulations, thereby providing a clear distinction between similar terms that are defined for different product areas. This section will include new definitions for an "accidental radiation occurrence," "model family," "chassis family," "modified model," and "components."

E. Components and Accessories

FDA is proposing to remove § 1002.3 concerning applicability of the record and reporting requirements to components and revise § 1002.10 to include information on components and accessories in the reports. This revision should eliminate any confusion on the reporting of component parts while still providing a means of reporting electrical specifications for components that can affect emissions from finished products.

F. Dealer and Distributor Records

FDA is proposing to clarify the dealer and distributor records requirement at § 1002.40(a). Dealers and distributors will continue to be responsible for being able to trace a specific product to a specific purchaser based on criteria including, but not limited to, a retail purchase price greater than or equal to $50. Some products will no longer be subject to this requirement based on their product safety record, radiation emission levels, and the practicability of tracing ownership of that product.

FDA, on its own initiative, is also proposing to exempt dealers and distributors of some electronic products from the requirements of §§ 1002.40 and 1002.41. FDA is taking this action because it has no recall, repair, or replacement data that justify retaining these requirements for these products.

G. Notification to User of Performance and Technical Data

Section 360A(c) of the Radiation Control for Health and Safety Act (42 U.S.C. 263i(c)) authorizes the Secretary of Health and Human Services (the Secretary) to require every electronic products manufacturer to provide performance data and other data related to the product's safety. The Secretary is also authorized, after consulting with the affected industry, to require manufacturers to notify the ultimate purchaser of the product of such performance and technical data at the time of original purchase as the Secretary determines necessary.

One task force recommendation was to develop regulations that would provide pertinent radiation emission specifications for selected electronic products, especially those products not subject to the performance standards, to users. FDA determined that this information could be submitted with the abbreviated report requirement and could relate to an actual or potential exposure in individuals. This information could also provide a comparison with relevant standards and background levels between similar products.

One comment said that it was inappropriate to require manufacturers to provide radiation emissions specifications to users at this time and that any proposal to add requirements for such information to users should be subjected to public review and comment before rulemaking. The comment suggest that FDA establish a need for this data before setting standards.

FDA recognizes the potential public health safety benefits that could be derived from an informed public on radiation emissions. Users or potential users of a radiation-emitting product should be informed about a product's performance and given technical data so they can make an informed decision when considering the product's safety and use. This performance and technical data should be presented in a concise and consistent manner to enable consumers to make an appropriate evaluation.

FDA is proposing to remove the information requirement contained in § 1002.3 *Records and reports on components* and include it as part of § 1002.10; the agency is also proposing to revise the section heading of § 1002.3 to read, "1002.3 *Notification to user of performance and technical data*". This user notification requirement will be proposed after consulting with the affected industry as required by section 360A(c) of the Radiation Control for Health and Safety Act of 1968.

H. Reporting Requirements

FDA is amending the existing reporting process of §1002.10 *Initial reports*, §1002.11 *Annual reports*, and §1002.12 *Reports of model changes* to include proposed §1002.10 *Product reports*, §1002.12 *Abbreviated reports*, and §1002.13 *Annual reports*.

1. *Initial reports and product reports.* FDA is changing the term "initial reports" to "product reports" for clarity and consistency with current practice. Product reports will be required before a manufacturer introduces into commerce: (a) each electronic product listed in Table 1 of §1002.1, or (b) a new design of an existing product of the same product category of an electronic product as previously reported where the design characteristics have substantially changed, i.e., a new model family or what is commonly referred to as a "model change report."

To facilitate the consolidation of information that is common to more than one model or model family, such as similar quality control or testing information, FDA will continue to provide reporting guides and instructions pursuant to §1002.7 to reduce the reporting requirements.

2. *Model changes and supplemental reports.* FDA is proposing to revise §1002.12 *Reports of model changes* to read "§1002.11 *Supplemental reports*" for clarity and consistency with current practices for updating "initial" and "model change" (new model family) reports. The proposal would require supplemental reports when changes in a product's physical or electrical design affect radiation emission, or when there are changes in the radiation quality control program. Specifically, supplemental reports would be required for changes that: (a) affect actual or potential radiation emission, (b) decrease the degree of compliance with a performance standard, or (c) result in a decreased probability of detecting

product noncompliance or increased radiation emission.

Under proposed §1002.13, supplemental reports would not be required for new models of a general class that do not change emission or compliance with performance requirements prior to their introduction into commerce. Manufacturers would report these model numbers in quarterly updates to the annual report.

3. *Abbreviated reports.* FDA recognizes that, for some products, meeting the full reporting requirements is not necessary in all instances to protect the public health. Thus, FDA is proposing §1002.12 *Abbreviated reports.* Products for which FDA would accept an abbreviated report are listed in Table 1 of §1002.1. Abbreviated reports would constitute the only reporting requirement for products without performance standards unless there is an active monitoring program for conforming to specific guidelines or to a voluntary standard in effect. Abbreviated reports will include the following information: (a) firm and model identification, (b) a brief description of operational characteristics that affect radiation or control exposure, (c) a list of applications or uses, and (d) radiation emission levels.

FDA may request additional information, if necessary, to determine whether the manufacturer acted or is acting in compliance with these provisions.

4. *Annual reports.* Because annual reports contain summaries of test results, current production status, information from manufacturers' complaint files, and other necessary information, they serve as an effective audit mechanism for both industry and the agency. For some products, this report may indicate whether the product meets radiation emission standards. FDA believes that annual reports can be an effective means for staff to monitor many electronic products, especially those that pose a significant health hazard.

FDA is proposing to amend the annual reporting requirement as follows: The requirements of §1002.11 will be amended to require reporting only on products subject to standards or that pose a significant public health hazard. The requirements of §1002.30 will also be amended to permit FDA to request information on production and product sales volumes. FDA is proposing that the following products also be eliminated from the annual reporting or retention of purchase record requirements: (1) X-ray generators, X-ray tables, vertical cassette holders, diagnostic X-ray cradles, film changers, cephalometric devices manufactured after February 25, 1978, and image receptor support devices for mammographic X-ray systems manufactured after September 5, 1978, (2) medical X-ray other than diagnostic, analytical and industrial X-ray, (3) television receivers emitting less than 0.1 mR per hour under certain test conditions, (4) RF sealers, (5) sunlamps (not products containing such lamps), (6) R type mercury vapor lamps, (7) microwave diathermy devices, and (8) certain ultrasonic devices.

I. Accidental Radiation Occurrences

One comment on the task force report said that the accidental radiation occurrence (ARO) reporting criteria are redundant, ambiguous, and require discretion on the part of both government and industry to determine what is a reportable ARO. The comment expressed some concern about the duplication of reporting requirements under §1002.20 *Reporting of accidental radiation occurrences* and §1003.10 *Discovery of defect or failure of compliance by manufacturer; notice requirements.*

In current §1003.10, a product defect is a manufacturing problem that may or may not result in an ARO. A reported ARO under current § 1002.20 may result in a determination by FDA that a product defect exists and may also result in a corrective action program by the manufacturer. In order to clarify the ARO provisions, FDA is proposing to revise § 1002.20 *Reporting of accidental radiation occurrence* to permit consolidation of a manufacturer's report under §1003.10.

J. Consolidation of Reporting Requirements

One task force recommendation was to develop procedures that would consolidate some reporting requirements in the Medical Device Amendments of 1976 and the radiation Control for Health and Safety Act of 1968. This recommendation recognized that, while reports cannot be combined in all situations, in some cases it may be advantageous to combine the reporting of electronic products that are also medical devices.

One comment agreed with FDA's intent to eliminate the duplicate reporting requirements if possible. This comment suggested that, in some situations, combining the reporting requirements would result in either an advantage or a disadvantage. Disadvantages would be apparent in situations where the reports are required to be submitted for different purposes and at different times.

FDA acknowledges that, in many situations, it would be impractical to consolidate different product reports that are for different purposes or that are due at a different reporting time.

Moreover, different expertise could be required to effectively evaluate different electronic products or medical de· ices. In some circumstances, this consolidation could even extend the review period due to these difficulties.

With respect to these concerns, FDA has concluded that this effort should undergo additional evaluation regarding which section and in what manner such a reporting consolidation can be most effectively utilized. To expedite this evaluation, the agency will coordinate this effort with the industry on a case-by-case basis until and effective consolidation can be determined.

FDA has concluded that, for the situation in which there is no performance standard for an electronic product, sufficient information regarding product safety can be obtained through FDA review of an investigational device exemption (IDE) pursuant to 21 CFR 812.30 or a premarket approval application (PMA) pursuant to 21 CFR part 814. Hence, FDA proposes to exempt from the requirements of this part manufacturers of electronic products which are also medical devices that are subjects of an IDE or PMA.

Some consolidation was instituted in 1984 when the medical device reporting (MDR) requirements were implemented. Manufacturers need not submit reports of accidental radiation occurrences if the incident is also required to be reported under MDR.

K. Exemptions

FDA recognizes the need for and value of a practical reporting regulation that clearly delineates the criteria and procedures for granting exemptions to the requirements of product reports (proposed), annual reports, abbreviated reports (proposed), and distribution records. Consequently, FDA is proposing to amend and to clarify the exemption procedures and criteria. FDA encourages industry and individual manufacturers to use the proposed exemption provisions when appropriate.

Proposed § 1002.50(a) clarifies the provisions under which manufacturers, dealers, and distributors may request exemptions from any requirement listed in Table 1 in § 1002.1. FDA intends to consider exempting products manufactured in small quantities (e.g., for self-use, research, training, or prototype); products with low radiation emission; and products with conservative design and a good quality

control record, and products subject to IDE regulation pursuant to 21 CFR 812.30 and premarket approval pursuant to 21 CFR part 814. FDA is also proposing to periodically review the requirements applicable to specific products and specific exemption criteria that do not present a public health hazard. Further, FDA is proposing that each manufacturer, dealer, or distributor for which an exemption is granted be given a written notification of the product or products exempted, together with a list of the requirements exempted and the conditions, if any, for the exemption. Proposed § 1002.50(c) provides parties who have been denied an exemption with written notification of the denial and the reasons for the decision. Under the proposal, exemptions may be revoked based on evidence that the basis for the exemption is not valid or that revocation is necessary to protect the public health and safety.

L. Economic Impact

This proposed rule is the result of an extensive retrospective review, including a cost-benefit analysis of the regulatory impact in accordance with the requirements of Executive Order 12291 and the Regulatory Flexibility Act (Pub. L. 96–354). The agency concludes that the proposed rule is not a major rule as defined in Executive Order 12291. Further, the agency certifies that the proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act. A copy of the document supporting this determination, "Report of the CDRH Task Force for Retrospective Review of the Recordkeeping and Reporting Requirements of 21 CFR 1002," is on file at the Documents Management Branch and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

M. Paperwork Reduction Act of 1980

This proposed rule contains information collections which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35). The title, description and respondent description of the information collection are shown below with an estimate of the annual reporting and recordkeeping burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. *Title:* Reporting and Recordkeeping Requirements for Electronic Products Under Public Law 90–602—General Requirements. *Description:* The Food and Drug Administration is proposing to amend its regulations regarding the requirements for recordkeeping and reporting of adverse experiences and other information relating to radiation emitting electronic products. The timing and content of certain reports will be revised to enhance the usefulness of the information. The purpose of these proposed changes is to improve the protection of the public health while also reducing the regulatory burden on manufacturers, dealers, and distributors of radiation emitting electronic products. The existing information collections have been approved under OMB No. 0910–0025. *Description of Respondents:* Businesses or other for profit organizations.

Estimated annual reporting and recordkeeping burden

Section	Annual number and reports of records	Average burden per response hours	Annual burden
1002.10 1002.12 Existing initial reports	320	34.0	10,889.0
Supplements	1,150	0.5	552.5
Model change reports	725	42.0	30,450.0
Supplements	1,415	0.5	707.5
Subtotals	3,610		42,590.0
Proposed products	1,200	24.0	28,800
Supplements 1002.30(a)	1,200	0.5	600
Existing	4,000,000	0.12	480,000
Proposed	1,904,000	0.12	228,480
Existing	[1] 42,000,000	0.048	2,016,000
Proposed	145,000	0.048	6,960

[1] The dealer record burden had previously been incorrectly reported as 17,000,000.
Total existing annual burden hours, 2,538,590.
Total proposed annual burden hours, 314,840.
Total annual burden hours reduced, 2,273,750 (87.6 percent reduction).

The distribution records required of manufacturers by § 1002.30(b) have not previously been considered since the aspect of business and the regulation places no additional burden on manufacturers.

As required by section 3504(h) of the Paperwork Reduction Act of 1980, FDA has submitted a copy of this proposed rule to OMB for its review of these information collection requirements. Other organizations and individuals desiring to submit comments regarding this burden estimate or any aspects of these information collection requirements, including suggestions for reducing the burden, should direct them to FDA's Dockets Management Branch (address above) and to the Office of Information and Regulatory Affairs, OMB, Rm. 3208, New Executive Office Bldg., Washington, DC 20503, Attn: Desk Officer for FDA.

List of Subjects in 21 CFR

Part 1000

Electronic products, Radiation protection, Reporting and recordkeeping requirements, X-rays.

Part 1002

Electronic products, Radiation protection, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act, the Radiation Control for Health and Safety Act, and the Freedom of Information Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR parts 1000 and 1002 be amended as follows:

PART 1000—GENERAL

1. The authority citation for 21 CFR Part 1000 continues to read as follows:

Authority: Secs. 354–360F of the Public Health Service Act (42 U.S.C. 263b–263n).

2. Section 1000.3 is revised to read as follows:

§ 1000.3 Definitions.

As used in this Subchapter J:

(a) *Accidental radiation occurrence* means a single event or series of events that has/have resulted in injurious or potentially injurious exposure of any person to electronic product radiation as a result of the manufacturing, testing, or use of that product.

(b) *Act* means the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90–602, 42 U.S.C. 263b *et seq.*).

(c) *Chassis family* means a group of one or more models with all of the following common characteristics:

(1) The same circuitry in the high voltage, horizontal oscillator, and power supply sections,

(2) The same worst component failures,

(3) The same type or design high voltage hold-down or safety circuits, and

(4) The same design and installation.

(d) *Commerce* means:

(1) Commerce between any place in any State and any place outside thereof, and

(2) Commerce wholly within the District of Columbia.

(e) *Component*, for the purposes of this part, means a finished product which may be used in an assembled electronic product and which may affect the quantity, quality, direction, or radiation mission of the finished product.

(f) *Dealer* means a person engaged in the business of offering electronic products for sale to purchasers, without regard to whether such person is or has been primarily engaged in such business, and includes persons who offer such products for lease or as prizes or awards.

(g) *Distributor* means a person engaged in the business of offering electronic products for sale to dealers without regard to whether such person is or has been primarily or customarily engaged in such business.

(h) *Electromagnetic radiation* includes the entire electromagnetic spectrum of radiation of any wavelength. The electromagnetic spectrum illustrated in Figure 1 includes, but is not limited to, gamma rays, X-rays, ultra-violet, visible, infrared, microwave, radiowave, and low frequency radiation.

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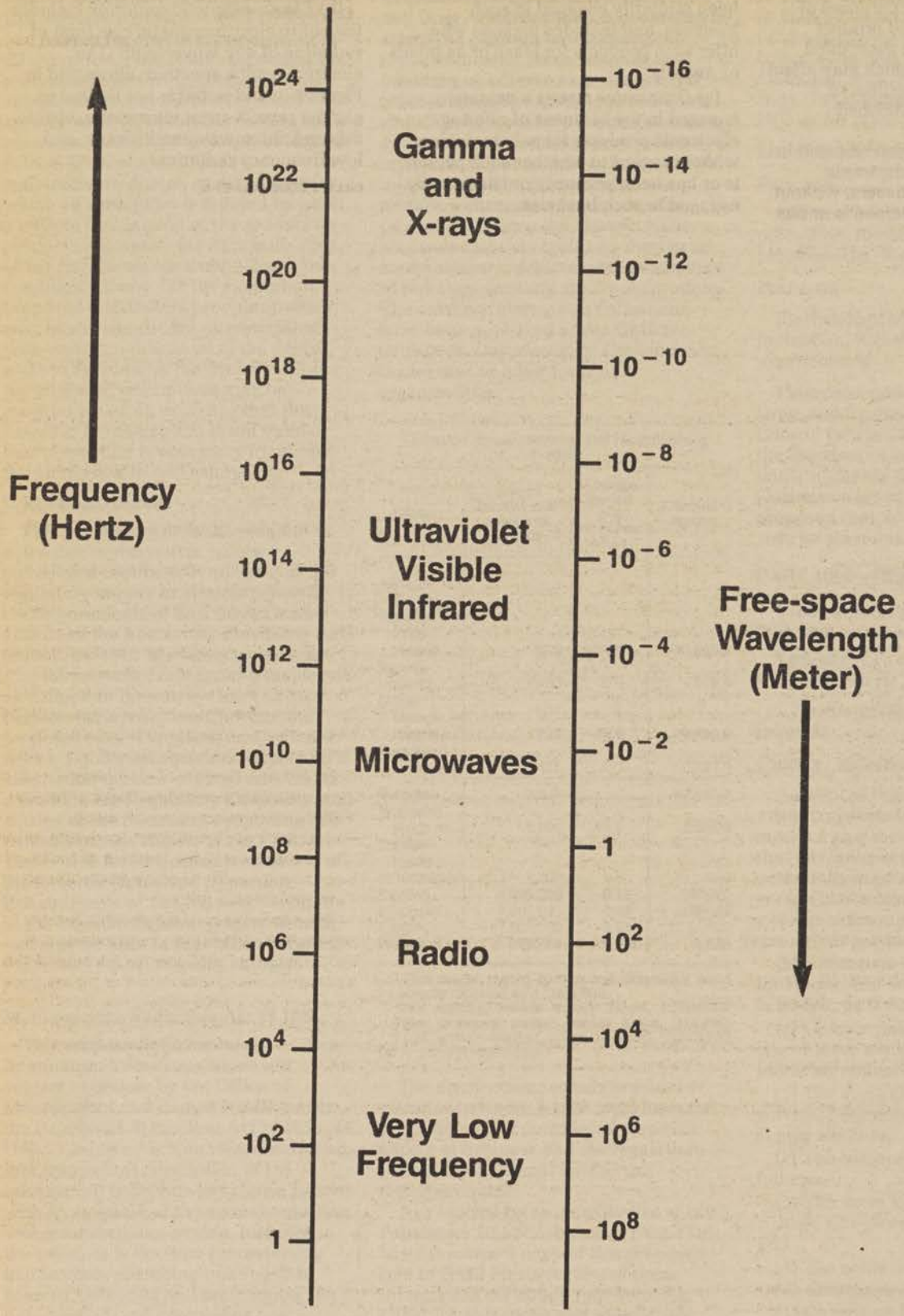

Figure 1

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(i) *Electronic product* means:

(1) any manufactured or assembled product which, when in operation,

(i) contains or acts as part of an electronic circuit and

(ii) emits (or in the absence of effective shielding or other controls would emit) electronic product radiation, or

(2) any manufactured or assembled article which is intended for use as a component, part, or accessory of a product described in paragraph (i)(1) of this section and which when in operation emits (or in the absence of effective shielding or other controls would emit) such radiation.

(j) *Electronic product radiation* means:

(1) Any ionizing or nonionizing electromagnetic or particulate radiation, or

(2) Any sonic, infrasonic, or ultrasonic wave, which is emitted from an electronic product as the result of the operation of an electronic circuit in such product.

(k) *Federal standard* means a performance standard issued pursuant to section 358 of the Act.

(l) *Infrasonic, sonic (or audible) and ultrasonic waves* refer to energy transmitted as an alteration (pressure, particle displacement or density) in a property of an elastic medium (gas, liquid or solid) that can be detected by an instrument or listener.

(m) *Manufacturer* means any person engaged in the business of manufacturing, assembling, or importing of electronic products.

(n) *Model* means any identifiable, unique electronic product design, and refers to products having the same structural and electrical design characteristics and to which the manufacturer has assigned a specific designation to differentiate between it and other products produced by that manufacturer.

(o) *Model family* means products having similar design and radiation characteristics but different manufacturer model numbers.

(p) *Modified model* means a product that is redesigned so that actual or potential radiation emission is affected or the possibility of detecting emission or noncompliance with a performance standard is decreased.

(q) *Particulate radiation* is defined as:

(1) charged particles, such as protons, electrons, alpha particles, heavy particles, etc., which have sufficient kinetic energy to produce ionization or atomic or electron excitation by collision, electrical attractions or electrical repulsion; or

(2) uncharged particles such as neutrons, which can initiate a nuclear transformation or liberate charged particles having sufficient kinetic energy to produce ionization or atomic or electron excitation.

(r) *Phototherapy product* means any ultraviolet lamp, or product containing such lamp, that is intended for irradiation of any part of the living human body at light of wavelength in the range of 200 to 400 nanometers, in order to perform a diagnostic or therapeutic function.

(s) *Purchaser* means the first person who, for value, or as an award or prize, acquires an electronic product for purposes other than resale, and also includes a person who leases an electronic product for purposes other than subleasing.

(t) *Secretary* means the Secretary of the Department of Health and Human Services.

(u) *State* means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

PART 1002—RECORDS AND REPORTS

3. The authority citation for 21 CFR Part 1002 continues to read as follows:

Authority: Secs. 502, 510, 519, 520, 701, 704, of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 352, 360, 360i, 360j, 371, 374); secs. 354–360F of the Public Heath Service Act (42 U.S.C. 263b–263n).

4. Section 1002.1 is revised to read as follows:

§ 1002.1 Applicability

The provisions of this part are applicable as follows:

(a) All manufacturers of electronic products are subjects to § 1002.20.

(b) Manufacturers, dealers, and distributors of electronic products are subject to the provisions of Part 1002 as shown in Table 1 of this section, unless excluded by paragraph (c) of this section, or unless an exemption has been granted under § 1002.50 or § 1002.51.

(c) The requirements of Part 1002 as specified in Table 1 of this section are not applicable to:

(1) Manufacturers of electronic products intended solely for export if such product is labeled or tagged to show that the product meets all the applicable requirements of the country to which such product is intended for export.

(2) Manufacturers of electronic products listed in Table of this section if sold exclusively to other manufacturers for use as components of electronic products to be sold to purchasers, with the exception that the provisions are applicable to those manufacturers certifying components of diagnostic X-ray systems pursuant to provisions of § 1020.30(c) of this chapter.

(3) Manufacturers of electronic products which are intended for use by the U.S. Government and whose function or design cannot be divulged by the manufacturer for reasons of national security, as evidenced by government security classification.

(4) Assemblers of diagnostic X-ray equipment subject to the provisions of § 1020.30(d) of this chapter, provided the assembler has submitted the report required by § 1020.30(d)(1) or (2) of this chapter and retains a copy of such report for a period of 5 years from its date.

SECTION 1002.1, TABLE 1—RECORD AND REPORTING REQUIREMENTS BY PRODUCT

Products	Manufacturer						Dealer/ distributor
	Product reports 1002.10	Supplemental reports 1002.11	Abbreviated reports 1002.12	Annual reports 1002.13	Test records 1002.30(a)	Distribution records 1002.30(b)	Distribution records 1002.40.41
X RAY:							
Diagnostic X Ray (1020.30,31,32) computer tomography	X	X		X	X	X	X
X-Ray system * *	X	X		X	X	X	X
Tube housing assembly	X	X		X	X	X	
X-ray control	X	X		X	X	X	X
X-ray high voltage generator	X	X			X	X	X
X-ray table			X		X	X	
X-ray cradle			X		X	X	

SECTION 1002.1, TABLE 1—RECORD AND REPORTING REQUIREMENTS BY PRODUCT—Continued

Products	Manufacturer						Dealer/distributor
	Product reports 1002.10	Supplemental reports 1002.11	Abbreviated reports 1002.12	Annual reports 1002.13	Test records 1002.30(a)	Distribution records 1002.30(b)	Distribution records 1002.40.41
X-ray film changer			X		X	X	
Vertical cassette holders mounted in a fixed location and cassette holders with front panels.			X		X	X	X
Beam-lighting devices	X	X		X	X	X	X
Spot-film devices and image intensifiers manufactured after April 26, 1977.	X	X		X	X	X	X
Cephalometric devices manufactured after February 25, 1978			X		X	X	
Image receptor support devices for mammographic X-ray systems manufactured after September 5, 1978.			X		X	X	
Cabinet X Ray (1020.40) baggage inspection	X	X		X	X	X	X
Other	X	X		X	X	X	
Products intended to produce particulate radiation or X-rays other than diagnostic or cabinet X-ray medical.			X		X	X	
Analytical			X		X	X	
Industrial			X		X	X	
Television receivers (1020.10) < 25 kV and <0.1 mR/h**			X	X			
> 25 kV and <0.1 mR/h**	X	X		X			
> 0.1 mR/hr**	X			X			
MICROWAVE/RF:							
MW ovens (1030.10)	X	X		X	X	X	
MW diathermy			X				
MW heating, drying, security systems			X				
RF sealers, electromagnetic introduction and heating equipment dialectric heaters (2–500MHz).			X				
Optical phototherapy products	X	X					
Laser products (1040.10,.11) Class I,*IIa,II,IIIa lasers & Class I products containing such lasers.	X			X	X	X	
Class IIIb & IV lasers and products containing such lasers	X	X		X	X	X	X
Sunlamp products (1040.20) lamps only	X						
Sunlamp products	X	X		X	X	X	X
Mercury vapor lamps (1040.30) T-lamps	X	X		X			
R lamps			X				
ACOUSTIC:							
Ultrasonic therapy (1005.10)	X	X		X	X	X	X
Medical ultrasound other than therapy or diagnostic	X	X					
Non-medical ultrasound			X				

*1002.31,.42, if applicable.
**Under Stage III test conditions (1020.10(c)(3)(iii)).

§ 1002.2 [Removed]

5. Section 1002.2 *Definitions* is removed from subpart A.

6. Section 1002.3 is revised to read as follows:

§ 1002.3 Notification to user of performance and technical data.

The Secretary of Health and Human Services may require a manufacturer of a radiation emitting electronic product to include in the labeling of the product at the time of original purchase to the ultimate purchaser such performance data and other technical data related to safety as he or she finds necessary.

7. Section 1002.7 is amended by adding a new sentence to the end of the introductory text, by revising the first sentence in paragraph (b), and by adding new paragraph (c) to read as follows:

§ 1002.7 Submission of data and reports.

* * * All submissions required by this part shall be addressed to the Director, Office of Compliance and Surveillance (HFZ–352), Center for Devices and Radiological Health, 1390 Piccard Dr., Rockville, MD 20850.

* * * * *

(b) Where guides or instructions have been issued by the Director, Center for Devices and Radiological Health, for the submission of material required by this part such as test data, product reports, abbreviated reports, supplemental reports, and annual reports, the material submitted shall conform to the applicable reporting guide or instruction to the extent that it is possible or appropriate to do so. * * *

(c) Where the submission of quality control and testing information is common to more than one model, or model family of the same product category, a "common aspects report" consolidating similar information may be provided, if applicable.

8. Subpart B, consisting of §§ 1002.10 to 1002.13, is revised to read as follows:

Subpart B—Required Manufacturers' Reports for Listed Electronic Products

Sec.

Subpart B—Required Manufacturers' Reports for Listed Electronic Products

§ 1002.10 Product reports.

Every manufacturer of a product or component requiring a product report as specified in Table 1 of § 1002.1 shall submit a product report to the Director, Office of Compliance and Surveillance (HFZ–352), Center for Devices and Radiological Health, Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, in accordance with this section. The report shall be submitted for each model or chassis family within 90 days following the effective date of listing such product in Table 1 of § 1002.1 or prior to the introduction of such product into

commerce, whichever is later. The report shall be distinctly marked "Product Report of [name of manufacturer)" and shall:

(a) State in the report for each model of a listed product whether the report is submitted pursuant to Table 1 in § 1002.1.

(b) Identify each model of the listed product together with sufficient information concerning the manufacturer's code or other system of labeling sufficient to enable the Secretary of Health and Human Services (the Secretary) to determine the place of manufacture.

(c) For records and reports required for products listed in Table 1 in § 1002.1, include information on all components and accessories which the manufacturer may provide in, on, or with the listed product and which affect the quantity, quality, or direction of the radiation emissions.

(d) Describe the function, operational characteristics affecting radiation emissions and intended and known uses of each model of the listed product.

(e) State the standard or design specifications, if any, for each model with respect to electronic product radiation safety. Reference may be made to a Federal standard, if applicable.

(f) For each model, describe the physical or electrical characteristics such as shielding or electronic circuitry, etc., incorporated into the product in order that the standards or specifications reported pursuant to paragraph (e) of this section are met.

(g) Describe the methods and procedures employed, if any, in testing and measuring each model with respect to electronic product radiation safety including the control of unnecessary, secondary, or leakage electronic product radiation, the applicable quality control procedures used for each model, and the basis for selecting such testing and quality control procedures.

(h) For those products which may produce increased radiation with aging, describe the methods and procedures used, and frequency of testing each model for durability and stability with respect to electronic product radiation safety. Include the basis for selecting such methods and procedures, or for determining that such testing and quality control procedures are not necessary.

(i) Provide sufficient results of the testing and measuring of electronic product radiation safety and of the quality control procedures described in accordance with paragraphs (g) and (h) of this section to enable the Secretary to determine the effectiveness of the methods and procedures used to accomplish the stated procedures.

(j) Report for each model all warning signs, labels, and instructions for installation, operation, and use which relate to electronic product radiation safety.

(k) Provide upon request such other information as the Secretary may reasonably require to enable him/her to determine whether the manufacturer has acted or is acting in compliance with the Act and any standards prescribed thereunder, and to enable the Secretary to carry out the purposes of the Act.

§ 1002.11 Supplemental reports.

Prior to the introduction into commerce of a new or modified model within a model or chassis family of a product listed in Table 1 of § 1002.1 for which a report under § 1002.10 was required, each manufacturer shall submit a report with respect to such new or modified model containing any changes in the information submitted in the product report. Reports will be required for changes that:

(a) Affect actual or potential radiation emission.

(b) Decrease the degree of compliance with a performance standard.

(c) Result in a decreased probability of detecting product noncompliance or increased radiation emission.

§ 1002.12 Abbreviated reports.

Manufacturers of products requiring abbreviated reports as specified in Table 1 of § 1002.1 shall submit an abbreviated report which shall include:

(a) Firm and model identification.

(b) A brief description of operational characteristics that affect radiation emissions, transmission, leakage or that control exposure.

(c) A list of applications or uses.

(d) Radiation emission, transmission, or leakage levels.

(e) If necessary, additional information as may be requested to determine compliance with the Act and this part.

§ 1002.13 Annual reports.

(a) Every manufacturer of products requiring an annual report as specified in Table 1 of § 1002.1 shall submit an annual report summarizing the contents of the records required to be maintained by § 1002.30(a) and providing the volume of products produced, sold, or installed.

(b) Reports are due annually. Such reports shall cover the 12-month period ending on June 30 preceding the due date of the report.

(c) New models of a model family that do not involve changes in radiation emission or requirements of a performance standard do not require supplemental reports prior to introduction into commerce. These model numbers should be reported in quarterly updates to the annual report.

9. Section 1002.20 is amended by adding a sentence at the end of paragraph (c) to read as follows:

§ 1002.20 Reporting of accidental radiation occurrences.

* * * * *

(c) * * * A manufacturer need not file a separate report under this section if an incident involving an accidental radiation occurrence is associated with a defect or noncompliance and is reported pursuant to § 1003.10 of this chapter.

10. Section 1002.30 is amended in the first sentence of paragraph (a) introductory text, by removing "under paragraphs (b) and (c) of § 1002.61" and adding in its place "in Table 1 of § 1002.1"; in paragraph (b) introductory text, by removing "paragraph (c) of § 1002.61" and adding in its place "Table 1 of § 1002.1"; and adding new paragraph (a)(5) to read as follows:

§ 1002.30 Records to be maintained by manufacturers.

(a) * * *

(5) Data on production and sales volume levels if available.

* * * * *

§ 1002.31 [Amended]

11. Section 1002.31 *Preservation and inspection of records* is amended in paragraph (c) by removing "paragraph (c) of § 1002.61" and adding in its place "Table 1 of § 1002.1".

12. Section 1002.40 is amended by revising paragraph (a) to read as follows:

§ 1002.40 Records to be obtained by dealers and distributors.

(a) Dealers and distributors of electronic products for which there are performance standards and for which the retail price is $50 or more shall obtain such information as is necessary to identify and locate first purchasers if the product is subject to this section by virtue of Table 1 of § 1002.1.

* * * * *

13. Section 1002.50 is revised to read as follows:

§ 1002.50 Special exemptions.

(a) Manufacturers of electronic products may submit to the Director, Center for Devices and Radiological Health, a request together with accompanying justification for exemption from any requirements listed

in Table 1 of § 1002.1. The request must specify each requirement from which an exemption is requested. In addition to other information which is required, the justification must contain documented evidence showing that the product or product type for which the exemption is requested does not pose a public health risk and meets at least one of the following criteria:

(1) The products cannot emit electronic product radiation in sufficient intensity or of such quality under any conditions or use or product failure to be hazardous;

(2) The products are produced in small quantities;

(3) The products are used by trained individuals and are to be used by the same manufacturing corporation or for research, investigation, or training.

(4) The products are custom designed and used by trained individuals knowledgeable of the hazards; or

(5) The products are produced in such a way that the requirements are inappropriate or unnecessary.

(6) The Director, Center for Devices and Radiological Health, may, subject to any conditions that he/she deems necessary to protect the public health, exempt manufacturers from all or part of the record and reporting requirements of this part on the basis of information submitted in accordance with paragraph (a) of this section or such other information which he/she may possess if he/she determines that such exemption is in keeping with the purposes of the Act.

(c) The Director, Center for Devices and Radiological Health, will provide written notification of the reason for any denial. If the exemption is granted, the Director will provide written notification of:

(1) The electronic product or products for which the exemption has been granted;

(2) The requirements that are exempted; and

(3) Such conditions as are deemed necessary to protect the public health and safety. Copies of granted exemptions shall be available upon request from the Office of Compliance and Surveillance (HFZ–300), Center for Devices and Radiological Health, 1390 Piccard Dr., Rockville, MD 20850.

(d) The Director, Center for Devices and Radiological Health, may, on his own motion exempt certain classes of products from the reporting requirements listed in Table 1 of § 1002.1, provided that he finds that such exemption is in keeping with the purpose of the Act.

(e) Manufacturers of products for which there is no applicable performance standard under part 1020 of this chapter and for which an investigational device exemption has been approved under § 812.30 of this chapter or for which a premarket approval application has been approved in accordance with § 814.44(d) of this chapter are exempt from submitting all reports listed in Table 1 of § 1002.1.

Subpart G [Removed]

14. Subpart G, consisting of § 1002.61 *List of specific product groups*, is removed.

Dated: May 15, 1990.

James S. Benson,

Acting Commissioner of Food and Drugs.

[FR Doc. 90–25209 Filed 10–24–90; 8:45 am]

BILLING CODE 4160–01–M

federal register

Thursday
October 25, 1990

Part III

The President

Proclamation 6212—Polish American Heritage Month, 1990

Digest

Part III

The President

Proclamation 3213—Polish American Heritage Month, 1980

Federal Register
Vol. 55, No. 207
Thursday, October 25, 1990

Presidential Documents

Title 3—

The President

Proclamation 6212 of October 23, 1990

Polish American Heritage Month, 1990

By the President of the United States of America

A Proclamation

Many Americans proudly trace their roots to Poland, a land whose rich and colorful past is rivalled only by the bright promise of its future. This month, as we celebrate the many contributions that Polish Americans have made to our Nation's history and culture, we also reaffirm the strong and friendly ties between the United States and their ancestral homeland.

Poles were among the first immigrants who came to these shores in search of liberty and opportunity, and they and their descendants have always been in the forefront of efforts to keep America free, strong, and prosperous. During the Revolutionary War, the great Polish heroes Tadeusz Kosciuszko and Kazimierz Pulaski helped to secure the Independence of our fledgling Republic. Since then millions of other men and women of Polish extraction have likewise invested their hopes in this Nation's bold experiment in self-government, working hard to ensure its success and inspiring us all through their great faith in God and their devotion to democratic ideals.

While Polish Americans have inspired us by their example, they have also enriched us through efforts to preserve their unique ethnic heritage. Heirs to the rich historic and cultural legacy established in the land of Copernicus and Chopin, these Americans have shared with their fellow citizens a wealth of Polish music, art, craftsmanship, and folklore.

The deep cultural and familial ties between the peoples of the United States and Poland have long been intertwined with the sturdy fiber of shared values and aspirations. For generations Poles have demonstrated the same belief in individual rights and dignity that inspires our own system of government. The Polish Constitution of May 3, 1791, one of the first written national constitutions in history, was modeled after that of the United States and dramatically asserted the Polish people's desire for liberty and self-determination. Despite decades of repression by ruling officials, military invasion by Nazi Germany and the Soviet Union in 1939, and the declaration of martial law in 1981, the people of Poland have remained firm in their devotion to democratic ideals. During the past year they have thrown off the heavy yoke of communism and begun to enter the community of free nations. Under the leadership of Eastern Europe's first non-Communist government in more than 40 years, they have been working to build a new economic order to break the cycle of impoverishment and decline imposed by nearly half a century of totalitarian rule.

The United States wholeheartedly supports Poland's democratic transition and her people's ongoing efforts to establish a pluralistic society and free market economy. In addition to direct financial aid, the United States has launched a series of initiatives designed to encourage private sector investment in Poland and to promote the growth of market institutions in that country. In May, I proudly announced the decision to create the Citizens Democracy Corps, whose first mission is to establish a center and clearinghouse for American private sector assistance and voluntary activities in Eastern Europe. Moreover, throughout the past several months, U.S. Government officials, as well as business and labor leaders, have traveled to Poland

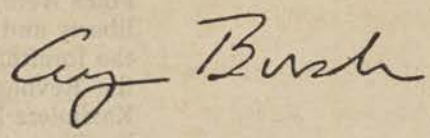
to share their expertise and to help establish cooperative ventures in areas such as agriculture, business management, and financial services.

Polish Americans are especially proud of the positive developments that have been taking place in their ancestral homeland, and rightly so. During this Polish American Heritage Month, we celebrate both their unique ethnic identity and the enduring ties that unite all Americans with the courageous, freedom-loving people of Poland.

The Congress, by Senate Joint Resolution 289, has designated October 1990 as "Polish American Heritage Month" and has authorized and requested the President to issue a proclamation in observance of this month.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim October 1990 as Polish American Heritage Month. I urge all Americans to join their fellow citizens of Polish descent in observance of this month.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of October, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.



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H.R. 1608/Pub. L. 101-445

National Nutrition Monitoring and Related Research Act of 1990; (Oct. 22, 1990; 104 Stat. 1034; 11 pages) Price: $1.00

H.R. 4522/Pub. L. 101-446

Firefighters' Safety Study Act. (Oct. 22, 1990; 104 Stat. 1045; 2 pages) Price: $1.00

H.R. 4593/Pub. L. 101-447

San Carlos Mineral Strip Act of 1990. (Oct. 22, 1990; 104 Stat. 1047; 2 pages) Price: $1.00

H.R. 4985/Pub. L. 101-448

To designate the Federal building located at 51 Southwest 1st Avenue in Miami, Florida, as the "Claude Pepper Federal Building". (Oct. 22, 1990; 104 Stat. 1049; 1 page) Price: $1.00

H.R. 5078/Pub. L. 101-449

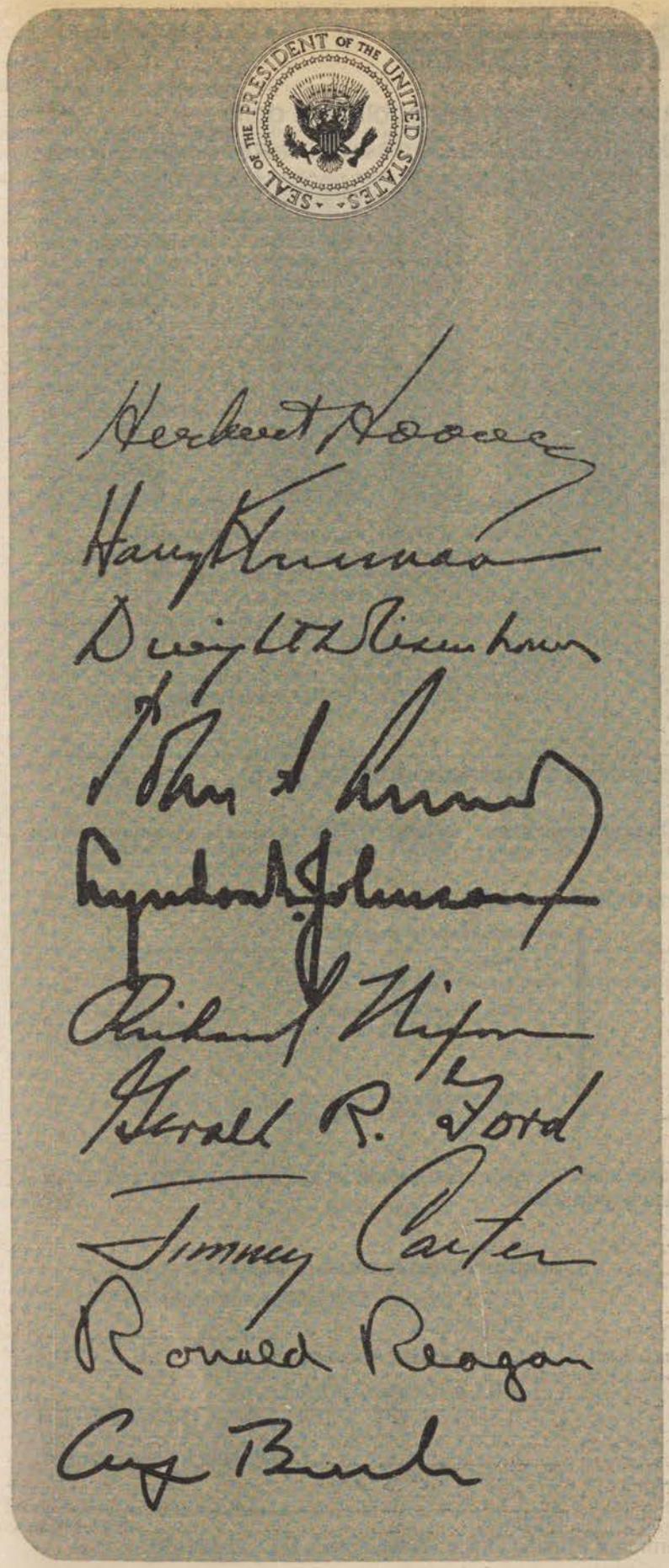
To amend the John F. Kennedy Center Act to authorize appropriations for maintenance, repair, alteration and other services necessary for the John F. Kennedy Center for the Performing Arts, and for other purposes. (Oct. 22, 1990; 104 Stat. 1050; 2 pages) Price: $1.00

S.J. Res. 304/Pub. L. 101-450

To designate October 17, 1990, as "National Drug-Free Schools and Communities Education and Awareness Day". (Oct. 22, 1990; 104 Stat. 1052; 1 page) Price: $1.00

S.J. Res. 317/Pub. L. 101-451

To designate the week of October 14, 1990, through October 20, 1990, as "National Radon Action Week". (Oct. 22, 1990; 104 Stat. 1053; 1 page) Price: $1.00



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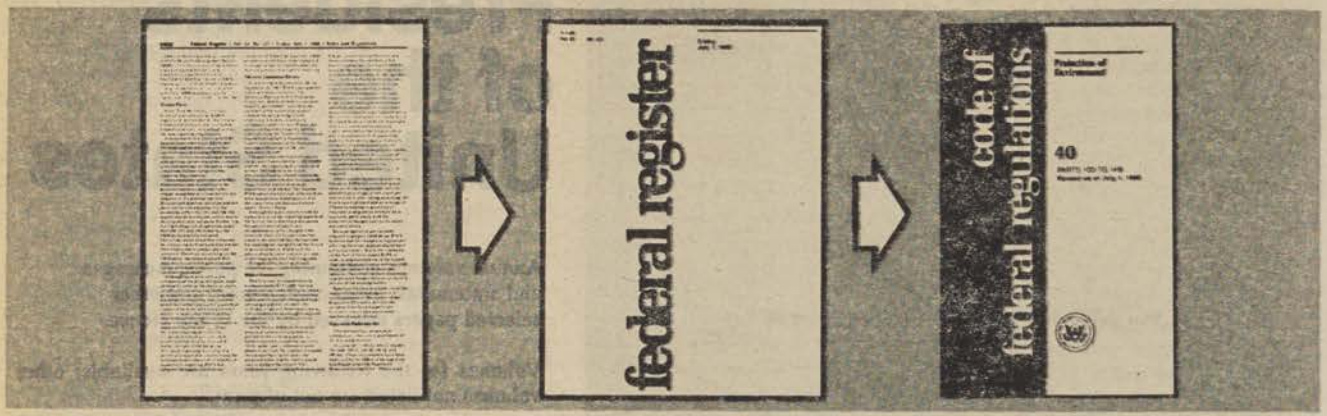

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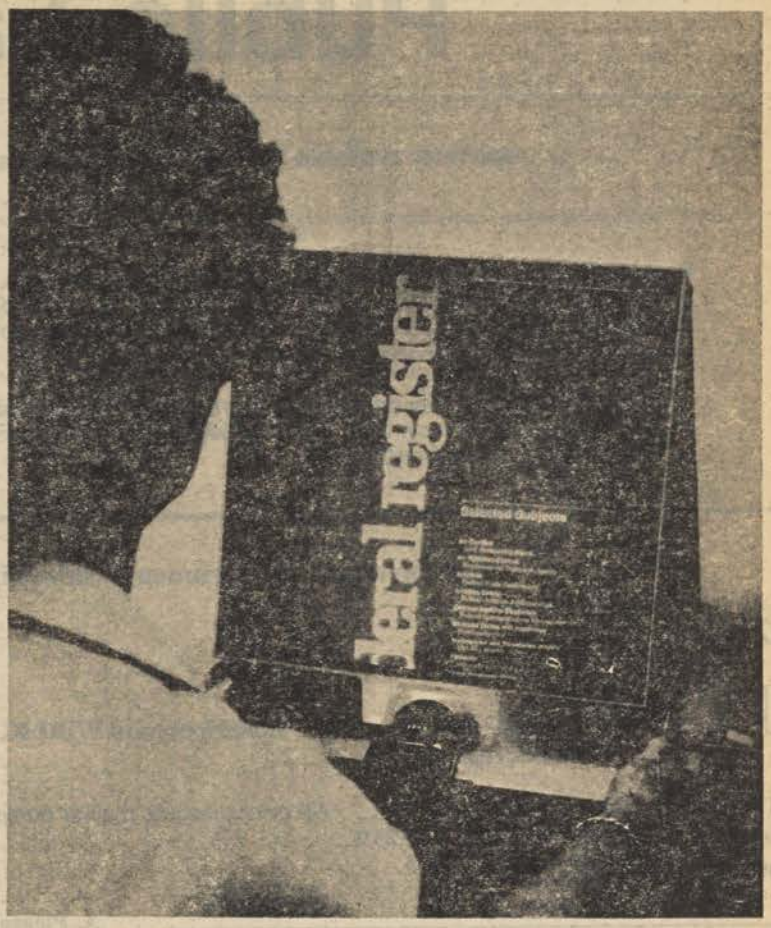

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