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

WHO: The Office of the Federal Register.

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

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

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

WASHINGTON, DC

WHEN: May 2, at 9:00 am
WHERE: Office of the Federal Register
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1100 L Street, NW, Washington, DC
RESERVATIONS: 202–523–5240

NEW YORK, NY

WHEN: May 21, at 9:00 am
WHERE: 26 Federal Plaza
Room 305 B and C
New York, NY
RESERVATIONS: Federal Information Center
1–800–347–1997

WASHINGTON, DC

WHEN: May 23, at 9:00 am
WHERE: Office of the Federal Register
First Floor Conference Room
1100 L Street, NW, Washington, DC
RESERVATIONS: 202–523–5240 (voice); 202–523–5229 (TDD)

NOTE: There will be a sign language interpreter for hearing impaired persons at the May 23, Washington, DC briefing.

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 319 and 321

[Docket No. 91-038]

Importation of Potatoes From Canada

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the regulations concerning foreign quarantine notices and importation of potatoes by adding restrictions on the importation of potato plants or tubers from the Canadian provinces of New Brunswick and Prince Edward Island. This emergency action is necessary to prevent the introduction of the necrotic strain of potato virus Y into the United States.

DATES: This interim rule is effective April 25, 1991. Consideration will be given only to comments received on or before July 1, 1991.

ADDRESSES: To help ensure that your comments are considered, send an original and three copies of written comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 91-038. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: James Petit de Mange, Operations Officer, Port Operations Staff, PPQ, APHIS, USDA, room 632, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8645.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR part 321 restrict the importation of potatoes from foreign countries, to prevent the introduction into the United States of potato wart and other injurious potato diseases and insect pests. Prior to the effective date of this document, § 321.8 of the regulations allowed potatoes to be imported without restrictions from Canada (except from Newfoundland and the Land District of South Saanich on Vancouver Island of British Columbia).

Recently a potato virus that presents a plant pest risk has been identified in potatoes in New Brunswick and Prince Edward Island. The necrotic strain of potato virus Y (PVY-N) (also known as tobacco veinal necrosis strain) can infect potatoes, tobacco, tomatoes, and peppers. Preliminary investigation by Agriculture Canada indicates that PVY-N has been traced back to a single farm in Prince Edward Island, and subsequent spread of PVY-N has been the result of movement of Atlantic variety seed potatoes from that farm to other farms in Prince Edward Island and New Brunswick.

The PVY-N virus is spread slowly in nature by aphids feeding on infected plants and transmitting the virus to healthy plants. Long-distance spread of the disease has resulted from the movement of infected potato tubers.

PVY-N is not known to exist in the United States, and its introduction would represent a threat to United States crops. There is no practical way to inspect commercial shipments of potatoes for infection with PVY-N, and there is no treatment available to destroy PVY-N in commercial shipments of potato tubers.

Therefore, we are adding importation restrictions in 7 CFR 321.9 for potatoes from Canada. For purposes of part 321, the term "potato" refers solely to tubers.

We are adding a requirement that potato tubers imported from New Brunswick or Prince Edward Island must be imported under a United States Department of Agriculture permit, and also (with one exception for processing potatoes, discussed below) must be accompanied by a phytosanitary certificate documenting certain facts about the origin and treatment of the potatoes, to ensure that they will not spread PVY-N.

New definitions in § 321.2 of the regulations identify potatoes imported from Canada by dividing them into the following three classes:

Seed potato. Potato tuber intended for planting and growing potato plants.

Table stock. Potato tuber intended for sale as a fresh vegetable.

Processing potato. Potato tuber intended to produce potato products, incapable of propagation, not to include table stock. We are imposing specific conditions for the importation of each class.

We are requiring that all seed potatoes from Canada must be accompanied by a phytosanitary certificate. If the seed potatoes were grown in Prince Edward Island, the phytosanitary certificate must state that the potatoes were grown in Prince Edward Island Seed Potato Inspection District 5 or 6. The PVY-N virus has never been found in these two areas in Prince Edward Island and none of the seed potatoes produced in these districts are the progeny of seed potatoes from any PVY-N infected farm.

Seed potatoes grown in New Brunswick must be accompanied by a phytosanitary certificate issued by Agriculture Canada stating that the potatoes were not the progeny of, nor were they grown on the same farm with, "Atlantic" variety seed potatoes that were produced on Prince Edward Island in 1988 or later. We are limiting the requirement of the additional declaration to "Atlantic" variety seed potatoes because infected "Atlantic" variety potatoes have been implicated in the spread of the disease, either directly or indirectly, in every case. Also, the quarantines established by Agriculture Canada prevent the movement of seed potatoes from any infected farm and from farms within 200 meters of an infected farm.

If the seed potatoes were not grown in Prince Edward Island or New Brunswick, the certificate must state their province of origin and state that they are not the progeny of potatoes of the "Atlantic" variety produced on Prince Edward Island in 1988 or later.

Table stock potatoes imported into the United States from New Brunswick and/or Prince Edward Island will be required to be accompanied by a phytosanitary

certificate. The certificate must state that the potatoes were either not grown in New Brunswick or Prince Edward Island or that they were treated with a sprout inhibitor (such as chlorpropham or other sprout inhibitors labeled for use on potatoes in the United States), in accordance with labeled rates, approved and authorized by the Environmental Protection Agency (EPA).

Processing potatoes may be imported into the United States from New Brunswick and Prince Edward Island if they are accompanied by a phytosanitary certificate with an additional declaration stating that (1) the potatoes were not grown in New Brunswick or Prince Edward Island or (2) that the potatoes were treated with a sprout inhibitor as required for table stock potatoes. However, processing potatoes may be imported from New Brunswick and Prince Edward Island with a phytosanitary certificate, lacking additional declarations described in (1) and (2) above, if they are moved from the first U.S. port of entry to the processing plant, under U.S. Customs Service bond, or U.S. Department of Agriculture seal, applied at the port by a Plant Protection and Quarantine Programs representative.

Potatoes imported from New Brunswick and Prince Edward Island for table stock or processing present a low pest risk to American agriculture because they are intended for purposes other than propagation. The application of sprout inhibitors to table stock and processing potatoes will act as a safeguard to further reduce the pest risk.

This document imposes no restrictions on table stock and processing potatoes that are grown in and imported from areas in Canada outside New Brunswick and Prince Edward Island.

The regulations in 7 CFR 319.37, "Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products" govern the importation of living plants, plant parts, and seeds for or capable of propagation, and related articles." We are adding a definition of "*Solanum* spp. true seed" to 7 CFR 319.37–1 to distinguish the true seeds from the flowers of *Solanum* spp. and *Solanum* tubers, whole or cut, that are referred to as *Solanum* seeds or seed potatoes. The PVY–N virus is not reported to be transmitted through true seed. For the purposes of § 319.37 of this part, the term "potato," referred to in the prohibited list, means all parts of the plant except tubers which are regulated under part 321. Therefore, we are changing the regulations in § 319.37–2 that restrict the importation of nursery stock, to prohibit the importation of potato plants subject to that subpart from New Brunswick and Prince Edward Island, except true seeds.

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. Immediate action is necessary to prevent the introduction of the necrotic strain of potato virus Y (PVY–N) into the United States.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these conditions, there is good cause under 5 U.S.C. 553 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 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

The emergency nature of this action makes it impracticable for the Agency to follow the procedures of Executive Order 12291 and Secretary's Memorandum 1512–1 with respect to this interim rule. Immediate action is warranted to prevent the introduction of PVY–N into the United States.

This emergency situation also makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act impracticable. Since this action may have a significant economic impact on a substantial number of small entities, the Final Regulatory Impact Analysis, if required, will address the issues required in section 604 of Public Law 96–354, the Regulatory Flexibility Act.

Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the information collection provisions that are included in this interim rule will be submitted for approval to the Office of Management and Budget. Written comments should be submitted to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. A duplicate copy of comments should be submitted to: (1) Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782 and (2) Clearance Officer, OIRM, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250.

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

7 CFR Part 319

Agricultural commodities, Imports, Nursery stock, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

7 CFR Part 321

Agricultural commodities, Imports, Plant diseases, Plant pests, Plants (Agriculture), Potatoes, Quarantine, Transportation.

Accordingly, 7 CFR parts 319 and 321 are amended to read as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. In § 319.37–1, the definition of *Solanum* spp. true seed" is added in alphabetical order as follows:

§ 319.37–1 Definitions.

* * * * *

Solanum spp. true seed. Seed produced by flowers of *Solanum* capable of germinating and producing new *Solanum* plants, as distinguished from *Solanum* tubers, whole or cut, that are referred to as *Solanum* seeds or seed potatoes.

* * * * *

3. In § 319.37–2 paragraph (a) the entries for "*Solanum* spp. * * *" are revised to read as follows:

§ 319.37–2 Prohibited articles.

(a) * * *

Prohibited article (except seeds unless specifically mentioned)	Foreign country(ies) or locality(ies) from which prohibited	Tree, plant, or fruit disease or injurious insect, or other plant pest determined as existing in the places named and capable of being transported with the prohibited article
* * *	* * *	* * *
Solanum spp. (excluding potato tubers which are subject to 7 CFR part 321).	All except Canada (excluding New Brunswick and Prince Edward Island).	Andean potato latent virus; Andean potato mottle virus; potato mop top virus; dulcamara mottle virus; tomato blackring virus; tobacco rattle virus; potato virus Y (tobacco veinal necrosis strain); potato purple top wilt agent; potato marginal flavescence agent; potato purple top roll agent; potato witches broom agent; stolbur agent; parastolbur agent; potato leaflet stunt agent; potato spindle tuber viroid.
Solanum spp. true seed (tuber-bearing species only—Section Tuberarium).	All except Canada	Andean potato latent virus; potato virus T; tobacco ringspot virus (Andean potato calico strain).
* * *	* * *	* * *

PART 321—RESTRICTED ENTRY ORDERS

4. The authority citation for part 321 is revised to read as set forth below and the authority citations following all the sections in part 321 are removed:

Authority: 7 U.S.C. 154, 159, and 162; 44 U.S.C. 35; 7 CFR 2.17, 2.51, and 371.2(c).

5. Section 321.2 is revised to read as follows:

§ 321.2 Definitions.

Canadian seed potato farm. A production unit identified as a single entity in the Canadian seed potato certification system as administered by Agriculture Canada.

Potato. Tuber of the common or Irish potato (*Solanum tuberosum*) and any botanical varieties or horticultural forms thereof, or any other tuber-producing species of the genus *Solanum* and any botanical varieties or horticultural forms of such species.

Processing potato. Potato tuber intended to produce potato products, incapable of propagation, not to include table stock.

Seed potato. Potato tuber intended for planting and growing potato plants.

Table stock. Potato tuber intended for sale as a fresh vegetable.

§ 321.3 [Amended]

6. In § 321.3 (a) "§ 321.8," is removed and "§§ 321.8 and 321.9," is added in its place.

7. Section 321.8 is revised and a new § 321.9 is added to read as follows:

§ 321.8 Special provision for the importation of potatoes from Bermuda.

Potatoes grown in Bermuda may be imported from Bermuda into the United States free of any restrictions under this subpart.

§ 321.9 Importation of potatoes from Canada.

Potatoes grown in Canada may be imported from Canada into the United States free of restrictions under this subpart other than those contained in this section.

(a) Potatoes grown in Newfoundland and the Land District of South Saanich on Vancouver Island of British Columbia may not be imported.

(b) Seed potatoes of the variety "Atlantic" grown in Prince Edward Island may not be imported.

(c) Seed potatoes (other than variety "Atlantic") grown in Prince Edward Island may be imported into the United States only if accompanied by a phytosanitary certificate issued by Agriculture Canada naming the potato variety and stating that the articles are seed potatoes and bearing an additional declaration stating that the potatoes were grown in Prince Edward Island Seed Potato Inspection District 5 or 6.

(d) Seed potatoes grown in New Brunswick may be imported into the United States only if accompanied by a phytosanitary certificate issued by Agriculture Canada stating that the articles are seed potatoes and stating the province of origin and bearing an additional declaration stating that the seed potatoes are neither the progeny of, nor were grown on the same Canadian seed potato farm with, any potatoes of the variety "Atlantic" produced on Prince Edward Island in 1988 or later.

(e) Seed potatoes imported from Canada that are not provided for in paragraphs (a), (b), (c) or (d) of this section must be accompanied by a phytosanitary certificate stating that the articles are seed potatoes and stating the province of origin and bearing an additional declaration stating that the seed potatoes are not the progeny of potatoes of the variety "Atlantic" produced on Prince Edward Island in 1988 or later.

(f) Table stock imported from New Brunswick and Prince Edward Island must be accompanied by a phytosanitary certificate with an additional declaration stating that (1) the potatoes were not grown in New Brunswick or Prince Edward Island or (2) the potatoes were treated with a sprout inhibitor (such as chlorpropham or other sprout inhibitors labeled for use on potatoes in the United States), in accordance with labeled rates, approved and authorized by the Environmental Protection Agency (EPA).

(g) Processing potatoes may be imported from New Brunswick and Prince Edward Island if they are accompanied by a phytosanitary certificate with an additional declaration stating that (1) the potatoes were not grown in New Brunswick or Prince Edward Island or (2) the potatoes were treated with a sprout inhibitor (such as chlorpropham or other sprout inhibitors approved for use on potatoes in the United States), in accordance with labeled rates, approved and authorized by the Environmental Protection Agency (EPA). Processing potatoes may be imported from New Brunswick and Prince Edward Island with a phytosanitary certificate, lacking additional declarations described in paragraph (g) (1) and (2) of this section, if they are moved from the first U.S. port of entry to the processing plant, under U.S. Customs Service bond, or U.S. Department of Agriculture seal, applied at the port by a Plant Protection and Quarantine Programs representative.

(h) Importers must obtain an import permit issued by the United States Department of Agriculture for which phytosanitary certificates are required by paragraphs (c) through (g) of this section.

Done in Washington, DC, this 25th day of April 1991.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91-10135 Filed 4-29-91; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 946

[Docket No. FV-91-255]

Irish Potatoes Grown in Washington; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate under Marketing Order No. 946 for the 1991–92 fiscal period. Authorization of this budget will permit the State of Washington Potato Committee (committee) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATES: July 1, 1991, through June 30, 1992.

FOR FURTHER INFORMATION CONTACT: Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, telephone 202–447–2020.

SUPPLEMENTARY INFORMATION: This rule is effective under Marketing Agreement No. 113 and Order No. 946, both as amended (7 CFR part 946), regulating the handling of Irish potatoes grown in Washington. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the Act.

This rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

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

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

There are approximately 45 handlers of Washington potatoes under this marketing order and approximately 385 producers. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.2] as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of Washington potato producers and handlers may be classified as small entities.

The budget of expenses for the 1991–92 fiscal year was prepared by the committee which is the agency responsible for local administration of the order, and submitted to the Secretary of Agriculture for approval. The members of the committee are producers and handlers of Washington potatoes. They are familiar with the committee's needs and with the costs of goods and services in their local area and are in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the committee was derived by dividing anticipated expenses by expected shipments of Washington potatoes. Because that rate is applied to actual shipments, it must be established at a rate that will provide sufficient income to pay the committee's expenses.

The committee met February 7, 1991, and unanimously recommended a budget for the 1991–92 fiscal year of $35,000, the same as last year. The new budget includes a decrease of $1,100 in compliance audits to be offset by increases in office supplies, postage, audit, salaries, and salary expenses. All other budget categories remain the same.

The committee also recommended an assessment rate of $.005 per hundredweight (cwt.), which is $.001 more than last year's rate. The increased assessment rate will yield $30,000 in assessment income when applied to anticipated fresh market shipments of 6 million cwt., down from last year's shipments of just over 7 million cwt. Total assessment income, plus $5,000 from the committee's authorized reserve, will be adequate to cover budgeted expenses of $35,000. Estimated reserves at the beginning of the year will be $15,000.

While this action imposes some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on the producers. However, these costs will be offset by the benefits derived by the operation of the order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

A proposed rule was published in the **Federal Register** on March 14, 1991 [56 FR 10826]. That document contained a proposal to add § 946.244 to authorize expenses and establish an assessment rate for the committee. That rule provided that interested persons could file comments through April 15, 1991. No comments were received.

It is found that the specified expenses are reasonable and likely to be incurred and that such expenses and the specified assessment rate to cover such expenses will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 946

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 946 is hereby amended as follows:

PART 946—IRISH POTATOES GROWN IN WASHINGTON

1. The authority citation for 7 CFR part 946 continues to read as follows:

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

2. A new § 946.244 is added to read as follows:

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

§ 946.244 Expenses and assessment rate.

Expenses of $35,000 by the State of Washington Potato Committee are authorized, and an assessment rate of $0.005 per hundredweight of assessable potatoes is established for the fiscal period ending June 30, 1992. Unexpended funds may be carried over as a reserve.

Dated: April 25, 1991.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 91–10157 Filed 4–29–91; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 981

[FV–91–233FR]

Almonds Grown in California; Changes to the Administrative Rules and Regulations Concerning Transfers of Reserve Credits

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule revises the administrative rules and regulations established under the Federal marketing order for California almonds to allow handlers to transfer reserve credits to other handlers before they have made reserve dispositions in excess of their own reserve obligations. This action is needed to facilitate the disposition of reserve almonds in years when volume regulations are in effect under the program. The action is based on a unanimous recommendation of the Almond Board of California (Board), which is responsible for local administration of the order, and other available information.

EFFECTIVE DATE: April 30, 1991.

FOR FURTHER INFORMATION CONTACT: Allen Belden, Marketing Order Administration Branch, F&V, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 475–3923.

SUPPLEMENTARY INFORMATION: This final rule is issued under marketing agreement and Order No. 981 [7 CFR part 981], both as amended, hereinafter referred to as the "order," regulating the handling of almonds grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the Act.

This rule has been reviewed by the Department in accordance with U.S. Department of Agriculture (USDA) Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

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

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

There are approximately 100 handlers of almonds who are subject to regulation under the marketing order and approximately 7,000 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.1] as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California almonds may be classified as small entities.

This final action allows handlers of California almonds to transfer reserve credits to other handlers before they have met their own reserve disposition obligations. This action relieves a restriction on handlers and is not expected to impose any additional burden or costs on handlers.

This action revises § 981.455 of Subpart—Administrative Rules and Regulations and is based on a unanimous recommendation of the Board and other available information.

The order contains provisions which allow the Secretary of Agriculture to establish salable and reserve percentages for a particular crop year. The crop year period designated under the order begins on each July 1 and ends on each June 30. When salable and reserve percentages are in effect, they apply to all marketable almonds received by handlers for their own accounts during a particular crop year. Handlers may dispose of salable almonds in any markets. Reserve almonds must be withheld from handling, disposed of by handlers in reserve outlets, or delivered to the Board for disposition in reserve outlets.

Section 981.55 of the order provides that any handler may, upon notice to and under the supervision and direction of the Board, transfer reserve credits to another handler. Handlers receive credits against their reserve obligations for disposing of almonds in reserve outlets or delivering almonds to the Board for disposition. Reserve outlets are specified in § 981.66(c) of the order, which states that no reserve almonds shall be sold in the United States, Puerto Rico, and the Canal Zone other than to governmental agencies or to charitable institutions for charitable purposes, except for diversion into almond oil, almond butter, poultry or animal feed, or into other channels which the Board finds are noncompetitive with existing normal markets for almonds, and with proper safeguards in each case to prevent such almonds thereafter entering the channels of trade in such normal markets.

Section 981.455(b) of the rules and regulations established under the order currently provides that if a handler has reserve disposition credit in excess of that handler's reserve obligation, all or part of the excess disposition may be credited to another handler. Section 981.50 of the order provides that a handler's reserve obligation for a particular crop year is equal to the quantity of almonds having a kernelweight equal to the reserve percentage of the kernelweight of all almonds such handler receives for its own account during that crop year.

This action amends § 981.455(b) to allow handlers to transfer reserve credits before they have made reserve dispositions in excess of their reserve obligations. The Board believes that this change is needed because the current language of § 981.455(b) unduly restricts handlers who wish to transfer credit.

In many crop years when a reserve percentage is in effect under the order, a portion of the reserve is released back to the salable category during the crop year or shortly after the end of the crop year. In some crop years when the reserve is released to the salable category, it is released in more than one installment. Section 981.48 of the order provides that requests to the Secretary of Agriculture to increase the salable percentage must be filed prior to May 15. The Secretary of Agriculture must then go through rulemaking proceedings before issuing a final rule to release reserve almonds to the salable category. Thus, handlers may not know until near the end or after the end of a particular crop year what their ultimate reserve obligations for that crop year will be.

Handlers are generally unwilling to dispose of reserve almonds which may be released to the salable category at a later date. Thus, because many handlers do not make reserve dispositions in excess of their reserve obligations by disposing of their almonds in reserve outlets or delivering those almonds to the Board, they are unable to utilize the reserve credit transfer provisions as currently specified in § 981.455(b) of the rules and regulations established under the order.

This action allows handlers to transfer reserve credits before they have made reserve dispositions in excess of their reserve obligations. This change is expected to benefit the industry by encouraging handlers who have developed markets for reserve almonds to sell as large a quantity of almonds to those markets as possible and transfer credits to other handlers who may not have developed such markets. Thus, the change would improve marketing efficiencies and facilitate the disposition of reserve almonds. The change should also provide buyers of reserve almonds with a more stable and reliable supply.

Language is also added to § 981.455(b) indicating that the transfer of reserve credit will not relieve the transferring handler from that handler's reserve obligation for the applicable crop year. Handlers must at all times hold in their

possession or under their control a quantity of almonds necessary to meet their reserve obligations, less the quantity of almonds for which they have received reserve credits which have not been transferred to another handler and less any quantity for which they have otherwise been relieved by the Board of the responsibility to so hold.

Section 981.455(b) of the rules and regulations established under the order also currently provides that transferred reserve credit shall not exceed the quantity needed by the receiving handler to cover that handler's reserve obligation, that the Board shall complete the transfer of reserve credits upon receipt of an ABC Form 11 executed by both handlers, and that no transfer of reserve credits shall be made to satisfy a handler's inedible disposition obligation incurred pursuant to § 981.42(a) of the order. These provisions will continue to govern reserve credit transfers.

Notice of this action was published in the **Federal Register** on February 21, 1991 [56 FR 6998]. Written comments were invited through March 8, 1991. No comments were received.

Based on the above, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities.

The information collection requirements contained in this rule have been previously approved by the Office of Management and Budget (OMB) and assigned OMB control number 0581–0071.

After consideration of all relevant matter presented, the information and recommendations submitted by the Board, and other available information, it is found that this final rule will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) Handlers are currently disposing of 1990–91 crop year reserve almonds and earning reserve credits; (2) some handlers have indicated that they would like to utilize this provision as soon as possible; (3) this action relieves a restriction on handlers; (4) handlers are aware of this action and need no additional time to comply; and (5) no useful purpose would be served by delaying the effective date of this action.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 981 is amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 981 continues to read as follows:

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

2. Section 981.455 is amended by revising paragraph (b) to read as follows:

§ 981.455 Interhandler transfers.

* * * * *

(b) *Transfers of reserve credits.* A handler may transfer reserve credits to another handler after having filed with the Board, in accordance with § 981.474, a completed ABC Form 13/14 covering the almonds to be diverted to a noncompetitive outlet and all the documentation applicable thereto. Such a transfer does not relieve the transferring handler of any reserve obligations for the applicable crop year. The transferred credit shall not exceed the quantity needed by the receiving handler to cover that handler's reserve obligation. The Board shall complete the transfer upon receipt of an ABC Form 11 executed by both handlers. No transfer of reserve credits shall be made to satisfy a handler's inedible disposition obligation incurred pursuant to § 981.42(a).

* * * * *

Dated: April 25, 1991.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 91–10156 Filed 4–29–91; 8:45 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Parts 94 and 95

[Docket 90–252]

Importation of Animal Products and Byproducts From Countries Where BSE Exists

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: We are amending our regulations by adding a list of countries where bovine spongiform encephalopathy (BSE) exists, and by prohibiting or restricting the importation of certain fresh, chilled, and frozen meat, and certain other animal products and animal byproducts from ruminants which have been in a country in which BSE exists. This action is necessary to reduce the risk that BSE could be introduced into the United States. This change will affect persons seeking to import the articles described above.

DATES: Interim rule effective April 30, 1991. Consideration will be given only to comments received on or before July 1, 1991.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 90–252. Comments may be inspected at room 1141 of the South Building, 14th Street 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 Gray, Senior Staff Veterinarian, Import-Export Products Staff, VS, APHIS, USDA, room 756, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–7885.

SUPPLEMENTARY INFORMATION:

Background

A neurological disease of bovine animals and deer called bovine spongiform encephalopathy (BSE) has been identified in France, Great Britain, Northern Ireland, the Republic of Ireland, Oman, and Switzerland. Since the disease was first identified in 1986 there have been over 23,300 cattle on over 10,400 farms in Great Britain that have died or been destroyed as a result of BSE infection. BSE has also been found to affect a small number of deer in Great Britain. At the present time, BSE is not known to exist in the United States.

At our present state of knowledge about the disease, it appears that BSE in bovine animals and deer may be caused by the same agent that causes the disease scrapie in sheep and goats. The major means of spread of BSE appears to be through the use of ruminant feed containing meat and other products from ruminants infected with BSE, and through use of veterinary biologic products which contain byproducts from ruminants infected with BSE.

This rule prohibits or restricts the importation of certain meat, products, and byproducts from ruminants which have been in countries in which BSE exists. Some ruminant feed used in the United States contains imported

ruminant meat, products, and byproducts. Further, some imported ruminant byproducts are used in veterinary biologic products in the United States. BSE could become established in the United States if materials carrying the BSE agent, such as certain meat, animal products, and animal byproducts from ruminants in countries in which BSE exists, are imported into the United States and are fed to or injected into ruminants in the United States. Therefore, the importation of these ruminant meat, products, and byproducts poses a risk of the introduction of BSE into the United States.

The Animal and Plant Health Inspection Service (APHIS) has determined that to prevent the introduction of BSE into the United States, the importation of fresh, frozen, and chilled meat, and edible products other than meat, from ruminants that have been in a country in which BSE exists must be prohibited unless the following conditions have been met: (1) All bones and visually identifiable lymphatic tissue and nerve tissue have been removed from the meat or edible product other than meat; (2) the meat or edible product other than meat is from ruminants that have not been in any country in which BSE exists during a period of time when the country permitted the use of ruminant protein in ruminant feed; and (3) the ruminants from which the meat or other edible products to be imported are derived were examined prior to slaughter by a salaried veterinarian employed by the national government of the country in which the ruminants were slaughtered, and found not to display any signs indicative of a neurological disorder.

These conditions are imposed on the importation of fresh, frozen, and chilled meat, and edible products other than meat, from ruminants that have been in a country in which BSE exists for the following reasons. First, the BSE agent concentrates in nerve and lymphatic tissue and bone marrow. Lymphatic and nerve tissue that is not visually identifiable does not constitute a significant risk of introducing BSE into the United States. Second, ruminants that have never been fed ruminant protein are extremely unlikely to develop BSE. Finally, ruminants that display signs of neurological disorder pose a high risk of being infected with BSE.

To ensure that a proper examination is made by persons able to detect signs indicative of a neurological disorder, ruminants from which the meat or other edible products to be imported are derived must be examined prior to slaughter by a salaried veterinarian employed by the national government of the country in which the ruminants are slaughtered for any signs indicative of a neurological disorder.

Further, APHIS has determined that to prevent the introduction of BSE into the United States, the importation of bone meal, blood meal, meat meal or tankage, fat, glands, and offal from ruminants that have been in a country in which BSE exists must be prohibited. These products are commonly added to ruminant feed, and we wish to remove the possibility that these animal byproducts from ruminants that have been in a country in which BSE exists could be imported and added to ruminant feed in the United States.

Further still, APHIS has determined that to prevent the introduction of BSE into the United States, the importation of ruminant serum from ruminants that have been in a country in which BSE exists must be prohibited, except when imported under a permit for scientific, educational, or research purposes. Imported serum is occasionally used in veterinary biologic products in the United States, and ruminant serum from ruminants that have been in countries in which BSE exists potentially could infect animals susceptible to infection with BSE that are injected with products made from it.

The regulations in 9 CFR parts 94 and 95 (the regulations) govern the importation of animals, animal products, animal byproducts, hay, and straw into the United States in order to prevent the introduction of various animal diseases. The regulations currently prohibit or restrict the importation of ruminants and swine; fresh, chilled, and frozen meat of ruminants and swine; and other specified animal products and animal byproducts that originate in or are shipped from a country where certain animal diseases exist.[1] We are adding restrictions for certain meat, products, and byproducts of the types described above from ruminants that have been in countries in which BSE exists, and we are listing France, Great Britain, Northern Ireland, the Republic of Ireland, Oman, and Switzerland as countries in which BSE exists. We are also adding definitions of "Administrator," "Animal and Plant Health Inspection Service," and "United States" in part 95.

[1] Animal diseases addressed by Part 94 include, but are not limited to, rinderpest, foot-and-mouth disease, fowl pest, Newcastle disease, African swine fever, and hog cholera.

Emergency Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that there is good cause for publishing this rule without prior opportunity for public comment.

BSE is a serious animal disease that has caused great loss to the cattle industry of Great Britain, and the introduction of this disease into the United States would cause great harm to the United States cattle industry. The restrictions contained in this interim rule must be implemented immediately to reduce the risk that BSE could be introduced into the United States through importation of certain meat, products, and byproducts from ruminants that have been in countries in which BSE exists.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these conditions, there is good cause under 5 U.S.C. 553 for making it effective upon publication in the **Federal Register**. 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 the review process required by Executive Order 12291.

As an alternative to the provisions of this rule, we have considered taking no action, and enforcing the current import regulations. This alternative was

rejected because it would allow meat, animal products, and animal byproducts that might spread BSE to be imported into the United States

The provisions of this rule will not have a significant economic impact on large or small entities. The only businesses affected will be a small number of importers of meat, products, and byproducts of ruminants which have been in a country in which BSE exists. Alternative sources for these products are available in the United States.

In recent years no fresh, chilled, or frozen beef has been imported from France, Great Britain, Northern Ireland, Oman, or Switzerland. A small amount of beef was imported from the Republic of Ireland in recent years; the value of these imports for the period 1987–88 was only $1,300,000. Recently one plant in Northern Ireland has applied to export beef to the United States. If this plant is approved, it will bear additional deboning and preparation costs for meat exported to the United States, to ensure that the meat meets the requirements of this rule.

An exporter in Great Britain has recently expressed interest in exporting small amounts of meat from deer to the United States. The exporter would also have to bear additional deboning and preparation costs to ensure that the meat meets the requirements of this 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 interim rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 94

African swine fever, Animal diseases, Exotic Newcastle disease, Foot-and-mouth disease, Fowl pest, Garbage, Hog cholera, Imports, Livestock and livestock products, Meat and meat products, Milk, Poultry and poultry products, rinderpest, and Swine vesicular disease.

List of Subjects in 9 CFR Part 95

Animal byproducts, Animal diseases, Imports, Livestock and livestock products.

Accordingly, the regulations in 9 CFR parts 94 and 95 are amended as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, and 134f; 31 U.S.C. 9701; 42 U.S.C. 4331, 4332; 7 CFR 2.17, 2.51, and 371.2(d).

2. A new § 94.18 is added to read as follows:

§ 94.18 Ruminant meat and edible products from ruminants that have been in countries where bovine spongiform encephalopathy exists.

(a) Bovine spongiform encephalopathy exists in the following countries:France, Great Britain, Northern Ireland, the Republic of Ireland, Oman, and Switzerland.

(b) The importation of fresh, frozen, and chilled meat, and edible products other than meat, from ruminants that have been in any country listed in paragraph (a) of this section is prohibited unless the following conditions have been met:

(1) All bones and visually identifiable lymphatic tissue and nerve tissue have been removed from the meat or edible product other than meat;

(2) The meat or edible product other than meat is from ruminants that have not been in any country listed in paragraph (a) of this section during a period of time when the country permitted the use of ruminant protein in ruminant feed; and

(3) The ruminants were examined prior to slaughter by a salaried veterinarian employed by the national government of the country in which the ruminants were slaughtered, and found not to display any signs indicative of a neurological disorder.

PART 95—SANITARY CONTROL OF ANIMAL BYPRODUCTS (EXCEPT CASINGS), AND HAY AND STRAW, OFFERED FOR ENTRY INTO THE UNITED STATES

3. The authority citation for part 95 is revised to read as follows:

Authority: 21 U.S.C. 111; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(d).

§ 95.1 [Amended]

4. The paragraph designations in § 95.1 are removed, the definitions are placed in alphabetical order, and new definitions of "Administrator," "Animal and Plant Health Inspection Service," and "United States" are added in alphabetical order to read as follows:

Administrator means the Administrator, Animal and Plant Health Inspection Service, or any individual authorized to act for the Administrator.

Animal and Plant Health Inspection Service means the Animal and Plant Health Inspection Service of the United States Department of Agriculture.

United States means the several States, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States, and all other territories and possessions of the United States.

5. A new § 95.4 is added to read as follows:

§ 95.4 Bone meal, blood meal, meat meal, offal, fat, glands, and serum from ruminants that have been in countries in which bovine spongiform encephalopathy exists.

The importation of bone meal, blood meal, meat meal or tankage, offal, fat, and glands from ruminants that have been in any country listed in § 94.18 of this chapter, is prohibited. The importation of serum from ruminants that have been in any country listed in § 94.18 of this chapter is prohibited, except that serum from ruminants may be imported for scientific, educational, or research purposes if the Administrator determines that the importation can be made under conditions that will prevent the introduction of bovine spongiform encephalopathy into the United States. Serum from ruminants imported in accordance with this section must be accompanied by a permit issued by the Animal and Plant Health Inspection Service in accordance with § 104.4 of this chapter, and must be moved and handled as specified on the permit.

Done in Washington, DC, this 24th day of April 1991.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91–10083 Filed 4–29–91; 8:45 am]

BILLING CODE 3410–34–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1245

Patents and Other Intellectual Property Rights

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: NASA is amending 14 CFR part 1245 by amending Subpart 5, "Authority and Delegation to Take Certain Actions Relating to Patents and Other Intellectual Property Rights." This Subpart 5 sets forth the authority and delegations relating to intellectual property rights, and the administration of the NASA patent program. This amendment makes a nomenclature change to accurately reflect the current position title of the Associate General Counsel for Intellectual Property.

EFFECTIVE DATE: April 30, 1991.

ADDRESSES: Office of the General Counsel, Code GP, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Harold W. Adams (202) 453–2418.

SUPPLEMENTARY INFORMATION: 14 CFR part 1245 subpart 5 is amended by amending §§ 1245.502 and 1245.503 to update a position title. Since this action is internal and administrative in nature and does not affect existing regulations, notice and public comment are not required.

The National Aeronautics and Space Administration has determined that:

1. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, since it will not exert a significant economic impact on a substantial number of small business entities.

2. This rule is not a major rule as defined in Executive Order 12291.

List of Subjects in 14 CFR Part 1245

Administrative practice and procedure, Authority delegations (Government agencies), Inventions and patents.

For reasons set out in the Preamble, 14 CFR part 1245 is amended as follows:

PART 1245—PATENTS AND OTHER INTELLECTUAL PROPERTY RIGHTS

1. The authority citation for 14 CFR part 1245, subpart 5, continues to read as follows:

Authority: 42 U.S.C. 2473, 2457; 14 CFR 1204.506.

2. Section 1245.502 is amended by revising the section heading and the introductory text to read as follows:

§ 1245.502 Associate General Counsel for Intellectual Property.

The Associate General Counsel for Intellectual Property provides functional direction to all Patent Counsel and is redelegated the authority to take the following actions:

* * * * *

3. Section 1245.503 is amended by revising paragraph (a) to read as follows:

§ 1245.503 Patent Counsel of Field Installations.

* * * * *

(a) *Rights determination.* To make determination, under Executive Order 10096 of January 23, 1950, as amended, or the respective rights of the Government and of the inventor in and to inventions made by employee under the administrative jurisdiction of their installations in those instances where the Government is entitled to obtain the entire right, title, and interest, and to make each determination, with the concurrence of the Associate General Counsel for Intellectual Property, in those instances where the Government acquires less than the entire domestic right, title, and interest.

* * * * *

Dated: April 17, 1991.

Richard H. Truly,

Administrator.

[FR Doc. 91–10016 Filed 4–29–91; 8:45 am]

BILLING CODE 7510–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 172

[FHWA Docket No. 89–28]

RIN 2125–AB30

Administration of Engineering and Design Related Service Contracts

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is required by law to implement the provisions of 23 U.S.C. 112(b)(2), as amended by section 111(b) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (1987 STURAA). These provisions require States and local agencies to award engineering and design service contracts using Federal-aid highway funds in accordance with the provisions of title IX of the Federal Property and Administrative Services Act of 1949 (Pub. L. 92–582, 86 Stat. 1278 (1972), 40 U.S.C. 541, *et seq.*), commonly called the "Brooks Bill," or use equivalent State qualifications-based procedures unless they have established or choose to establish a formal procurement procedure by State statute. The "Brooks Bill" provisions require that all applicable contracts be awarded pursuant to a fair and open competitive negotiation process and on the basis of demonstrated competence and qualification.

The FHWA is issuing this regulation to describe acceptable procurement procedures for engineering and design services when Federal-aid highway funds (under the grant-in-aid process) participate in the contract. The regulation describes the various steps both State and local agencies will follow when advertising, selecting, negotiating and monitoring the work. These steps will assure that the contracting procedures used comply with 23 U.S.C. 112(b) requirements, the "Brooks Bill," other applicable Federal statutes, and accepted contracting principles. It will also allow appropriate FHWA contract monitoring that is essential for discharging its stewardship responsibilities.

The regulation requires State and local agencies to: (1) Get the FHWA's approval before using a consultant in management role; (2) have written procedures that are approved by the FHWA; (3) perform prenegotiation audits for contracts over $250,000; (4) prepare adequate scopes-of-work, evaluation factors and cost estimates; (5) evaluate and select firms using either qualifications-based procedures or procedures based on State statutes; (6) specify the method of payment for the work performed; and (7) establish adequate contract monitoring procedures. The regulation also allows States to substitute their approval actions for the FHWA's.

EFFECTIVE DATE: April 30, 1991. All contracts using Federal-aid highway funds, for engineering and design related services, authorized after the effective date of this regulation, are subject to these provisions.

FOR FURTHER INFORMATION CONTACT: Keith E. Borkenhagen, Interstate and Programs Support Branch, Office of Engineering, 202–366–4630, or Vivian Philbin, Office of Chief Counsel, 202–366–1393, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except for legal holidays.

SUPPLEMENTARY INFORMATION:

The FHWA published an NPRM on the administration of engineering and design related service contracts on March 5, 1990 (55 FR 7739). It provided a 60-day period for agencies, firms or individuals to provide comments.

Unlike many contracts that can be administered under the common grant management rule, 49 CFR part 18, engineering and design service contracts

using Federal-aid highway funds are governed by the additional statutory requirements in title 23 and the "Brooks Bill." The FHWA is establishing procedures to assure that State and local agencies meet these requirements.

The "Brooks Bill" provisions require all agencies to: (1) Publicly announce all requirements; (2) conduct negotiations based on demonstrated competence and qualifications; (3) negotiate with at least three qualified firms based on qualifications and performance data on file or proposals submitted; (4) evaluate qualifications based on announced criteria; (5) negotiate a fair and reasonable price with the most technically qualified firm; and (6) if unable to negotiate a satisfactory contract with the top ranked firm, terminate negotiations and start negotiations with the next highest ranked firm. Contracting agencies must comply with these provisions, unless they have or choose to establish by State statutes, other procedures.

This regulation carries out the FHWA's responsibility to promulgate rules to ensure that these provisions are met.

Discussion of Comments

This section briefly describes the provisions of the major sections and addresses the comments received on the NPRM. The FHWA received comments from 19 State highway agencies, 9 consultant engineering associations/societies, 17 consultant engineering firms and 11 individuals.

General Comments

Four State comments support the regulation essentially as published in the NPRM and eight State comments support major features of the NPRM. Fifteen engineering societies, associations and firms also support acceptance of the regulation. Three State comments said the NPRM conflicts with the requirements of the common grant management rule, 49 CFR part 18 (hereafter referred to as the "common rule"). The common rule applies to all types of contracts, but it contains only general requirements and does not focus on the statutory requirements applicable to engineering and design service contracts using Federal-aid highway funds. Thus, while the FHWA has applied the policies of the common rule whenever appropriate, it has included more specific requirements where necessary to comply with statutory requirements.

In response to the three comments stating the NPRM conflicts with the common rule, the FHWA maintains that the regulation is appropriate and does not impose unnecessary or burdensome non-statutory requirements on contracting agencies. Where requirements depart from the common rule, they are necessary to implement the provisions of 23 U.S.C. 112(b)(2), the "Brooks Bill," other applicable Federal statutes and our stewardship responsibilities in ensuring the proper and effective use of Federal-aid highway funds.

Because these three comments did not identify specific areas of conflict, the FHWA reexamined the regulation to ascertain whether the requirements that depart from the common rule are justified. The results of this review and our response to specific comments are covered in the applicable section of the regulation.

Section 172.1 Purpose and Applicability

This section defines the purpose and applicability of the regulation. The regulation is applicable to all engineering and design related service contracts using Federal-aid highway funds.

One State and two individuals requested that the regulation be modified to exclude highway planning and research and planning funded contracts since these funds cannot be used for services relating to construction projects. The FHWA agrees with this comment and the regulation has been modified accordingly.

There were 23 comments from engineering associations, societies, firms and individuals requesting that the regulation's applicability be expanded to apply to all engineering and design service contracts instead of only Federal-aid highway funded contracts. Two States requested that additional language be added to clearly exempt all 100 percent State funded contracts from the regulation. The FHWA's longstanding interpretation of 23 U.S.C. 112 is that it applies only to the specific contracts financed with Federal-aid highway funds whether such contracts are for physical construction or for engineering services. The FHWA maintains that neither the "Brooks Bill" provision of 23 U.S.C. 112(b) nor its legislative history provide a basis for changing this interpretation. Therefore, the FHWA has determined that the provisions of 23 U.S.C. 112(b)(2) apply only to contracts funded with Federal-aid highway funds.

One State requested that paragraph (b) be amended to allow procedures codified in State statutes to be used for selecting consultants. An individual requested that a sentence be added to this paragraph to explain which regulation applies to non-engineering and design service contracts. The FHWA agrees with these two comments and the regulation has been modified accordingly.

Section 172.3 Definitions

This section defines terms used in the regulation to assure consistent interpretation by the consultant industry and the contracting agencies.

Two engineering firms requested that the term "contractor" be changed and redefined to cover firms engaged in engineering and design services. The FHWA agrees and the term "contractor" has been changed to "consultant" throughout the regulation and has been redefined accordingly.

There were 12 comments from engineering associations, societies and firms requesting clarification of the term "competitive negotiations." This term is now defined in the regulation.

There were three comments from engineering societies and firms requesting clarification of the term "fixed fee." Its definition has been amended to include business expenses not allocable to overhead.

Two engineering firms requested that the term "engineering and design services" be defined. This term is now defined in the regulation in the same way it was defined in section 111(b) of the 1987 STURAA.

One State requested that the term "audit" be changed to "prenegotiation audit" to separate it from the "post audit" performed by some States. The FHWA agrees with this change and the term "prenegotiation audit" is now used throughout the regulation.

Section 172.5 General Principles

This section requires contracting agencies to: (1) Obtain approval from the FHWA before using a contractor in a "management" role; (2) have written procedures that are approved by the FHWA for procuring contracts; and (3) sets the dollar limit for contracts requiring prenegotiation audits at $250,000. It also sets procedures dealing with a State highway agency's responsibility and control in local agency contracts and claim settlements.

Two engineering firms requested that paragraph (a) be modified to delete the FHWA's approval requirement for hiring consultants in a management role. The provisions of 23 U.S.C. 302, require States to have adequate powers, and be suitably equipped and organized to discharge the duties required by title 23, U.S.C. States must justify their reason(s) for requesting the use of a consultant to manage a program or project and why

the State cannot perform the work. Hiring consultants for management roles should be limited to situations requiring expertise outside the State's normal staff capability or where unique or unusual circumstances exist. Some examples are: (1) Very large projects; (2) where there are unusual cost or time constraints; or (3) the lack of State expertise in a particular area. This paragraph has also been amended to indicate that this requirement is applicable only to Federal-aid highway funded contracts.

This rule requires States and local agencies to have written procedures to implement Federal requirements when procuring contracts using Federal-aid highway funds. These procedures must be approved by the FHWA. Written procedures are necessary to assure that all agencies, particularly local agencies, using Federal-aid highway funds to procure engineering and design services will comply with all applicable Federal statutes and for the proper control of Federal-aid contracts. Having adequate written procedures will assist the FHWA in determining whether a State's procedures include all the provisions of the "Brooks Bill." Without such procedures, the FHWA cannot assure that State and local agencies have procedures in place that meet the very specific mandates of the Federal law. In fact, not specifying specific procedures may ultimately prove more burdensome to State and local governments that wish to comply and need guidance on how to establish procedures that comply with the legislative requirements.

There were three individual comments requesting that paragraph (b)(1) be revised to delete the words "prior to beginning the process of" since some items required under this paragraph can be can be done later in the selection process. The FHWA agrees and the regulation has been modified accordingly.

Two engineering firms requested that paragraph (b)(6), which required cost reimbursement for errors, be eliminated to minimize the potential liability for consultants and one individual requested that additional guidance be provided in this area to assure equity in application. This paragraph has been revised to shift its emphasis from "obtaining reimbursement" to "determining the extent of liability." In addition, a new paragraph explaining liability has been added to § 172.13(c).

Four States and three engineering firms requested that paragraph (c) be revised to delete the requirement for auditors to determine if the firm has "sufficient resources to complete the work on time." The FHWA agrees that this determination should not be made by the auditors and the phrase has been deleted.

The rule requires prenegotiation audits for certain contracts. Prenegotiation audits are appropriate because the "Brooks Bill" clearly requires agencies to negotiate contracts at a compensation determined to be "fair and reasonable to the Government." The FHWA has concluded that a prenegotiation audit is the best way to obtain detailed cost information to determine the validity of a firm's cost proposal, insure non-allowable costs are not included and the costs are "fair and reasonable" to the government.

Four States and five engineering associations, societies and firms support the $250,000 prenegotiation audit threshold in paragraph (c)(1). One State asked for it to be set at $500,000 and one State asked for it to be set at $100,000. The average cost (between 1987 and 1989) of Federal-aid funded consultant engineering service contracts was $171,000. Thus, the $250,000 threshold is reasonable to assure that an acceptable number of contracts are reviewed and has been retained.

One State commented that the first sentence in paragraph (c)(2) conflicts with the audit scope prescribed in "generally accepted auditing standards" and Government Auditing Standards. The FHWA agrees and this sentence has been deleted.

Two States requested that paragraph (c)(3) be modified to permit "audit judgment to be a factor" in determining the need for an audit by recognizing that a review of less scope than an audit required under Government Auditing Standards is acceptable when "sufficient audited contractor data" is already on hand to permit a reasonable comparison with the cost proposal. The FHWA agrees and this paragraph has been modified accordingly.

Two individuals requested that the types of contracts covered in paragraph (e) clearly specify engineering and design service contracts subject to 23 U.S.C. 112(b)(2). The FHWA agrees and the regulation has been modified accordingly.

Five State comments requested that paragraph (f) be changed to stipulate that: (1) State highway agencies maintain oversight in local contracts; (2) State highway agencies are responsible for settling claims; (3) the FHWA should review, approve and participate in the cost of the settlements; and (4) the "code of conduct" and procedures for eliminating duplicative purchasing should be left to the States. The FHWA agrees and has added the first three points mentioned above, deleted the duplicative purchasing requirement and dropped the requirement for a State "code of conduct."

Section 172.7 Methods of Procurement

This section addresses the methods of procurement to be used in contracting for engineering and design service contracts. It list specific requirements under the competitive negotiation section for: (1) Preparation of the scope of work, evaluation factors and cost estimate; (2) soliciting proposals; (3) proposal analysis and contractor selection; (4) negotiation responsibility; and (5) the execution of the contracts. It sets the upper dollar limit for small purchase contracts at $25,000 and lists the circumstances under which noncompetitive negotiations can be used.

Six engineering firms requested an explanation of the procurement types allowed under this regulation. The FHWA agrees and a paragraph listing the three forms of acceptable procurement methods has been added to the regulation. One State asked whether "general" engineering service contracts are allowed under the regulation. These contracts are allowed under the competitive negotiation section.

One State requested a quicker selection procedure for hiring firms for construction engineering and inspection (CE&I) projects, two States requested a quicker selection process for small local or routine projects and one State requested that small States be allowed to establish different selection procedures. Because engineering and design service contracts using Federal-aid highway funds are governed by additional statutory provisions (title 23, U.S.C. and the "Brooks Bill"), procurement flexibility is limited. Contracting agencies must comply with these provisions, unless they have or choose to establish by State statutes, other procedures that exempt them from these provisions. However, a streamlined procurement process for small projects (under $25,000) is permitted under § 172.7(b). Further flexibility is provided under § 172.15 that allows States to substitute their contract review and approval actions for that of the FHWA.

One State requested that non-competitive negotiations be allowed for all contracts below $500,000. This request is not in accordance with the requirements of the "Brooks Bill."

Two States questioned the need for FHWA approval actions in the selection and contract modification phases of the process. The FHWA maintains that this

requirement is necessary to monitor the expenditure of Federal-aid highway funds to insure obligations are not exceeded and project costs are not excessive.

One State and one engineering firm requested that the words "prior to issuing a Request for Proposal" in paragraph (a)(1) be removed since the preparation of the detailed cost estimate, listed in paragraph (a)(1)(ii), does not have to be prepared in this phase, but can be prepared in later phases of the process. The FHWA agrees and the regulation has been modified.

Two States requested that paragraph (a)(1)(iii) be modified to delete the phrase "salary estimates" from the scope phase because these costs cannot be determined until the negotiation phase. The FHWA agrees and the regulation has been modified accordingly.

One State requested that the preparation of a detailed cost estimate be eliminated for contracts under $250,000. Requiring States to prepare detailed cost estimates is clearly appropriate because the "Brooks Bill" requires agencies to negotiate contracts at a compensation determined to be "fair and reasonable to the Government." Having a detailed agency cost estimate is a crucial tool in the negotiations process. Therefore, cost estimates are required on Federal-aid contracts except for contracts awarded under small purchase procedures.

Five States requested that paragraph (a)(2)(i) be changed to allow additional methods of advertising the work. The FHWA agrees and the regulation has been modified to add other methods.

There were 14 comments from engineering associations, societies and firms requesting that paragraph (a)(2)(ii)(C) be modified to clearly state that "priced proposals" can only be used in the selection phase when they are a part of the selection process established by a State's statues. The FHWA agrees and the regulation has been modified accordingly.

One State and five engineering firms requested that the term "cost estimate" be deleted from paragraph (a)(3) because it belongs in the negotiations section. In addition, there were eight comments from engineering associations, societies and firms requesting that the term "permitted" in paragraph (a)(3)(ii)(B) be revised to read "established." The FHWA agrees with these two changes and the regulation has been modified accordingly.

Three engineering associations and firms requested that the phrase "or subsequently established" be deleted from paragraph (a)(3)(ii)B. The FHWA has determined that the 1987 STURAA allows States the future option of passing State statutes establishing procedures for the procurement of these services.

There were 10 comments from engineering associations, societies and firms requesting that paragraph (a)(4)(ii) be modified to delete overhead as a negotiated item since it is an actual audited cost. The FHWA agrees and the paragraph has been modified and amended to exempt services normally negotiated on a per unit cost (cost per unit of work and specific rate of compensation) since these units already include all elements of cost and an amount for the consultant's fee.

Three engineering firms asked that the dollar limit for small purchase procedures be set at $10,000. One State asked that the limit be set at $50,000, and five comments from engineering firms requested that the small purchase option be eliminated. In addition, two States and one engineering firm requested that the requirement for obtaining two price quotations be deleted. The FHWA has determined that the $25,000 figure used in the NPRM is an acceptable limit for small purchase contracts and is consistent with other contract requirements. The regulation has been revised to delete the requirement for obtaining two price quotations.

Three engineering firms requested that noncompetitive negotiations be thoroughly documented and justified. One State comment requested that services from "public agencies or educational institutions" be included in this section. Because noncompetitive negotiations are an exception to the qualifications-based procurement process, the regulation has been revised to clarify the requirement for contracting agencies to submit justification and receive FHWA approval before using this type of contracting. The use of public agencies or educational institutions is allowed under this section.

Section 172.9 Compensation

This section requires that the cost principles in 48 CFR 31 (Federal Acquisition Regulations) be used on all contracts governed by this regulation and sets forth and defines the methods of payment allowed.

There were several comments requesting a revision to the payment methods allowed by the regulation. One State indicated that the "cost-plus-a-percentage-of-cost" method should be allowed and one State commented that the regulation's prohibition on "cost-plus-a-percentage-of-cost" method of contracting conflicts with the common rule. Three engineering firms requested that this method not be used. Under a "cost-plus-a-percentage-of-cost" contract, a firm's fee is based on a predetermined percentage of the final cost of completed work included in the consultant's contract. Therefore, this method does not encourage firms to maximize and streamline their work to keep the total contract cost low because it will also reduce their fee. The FHWA maintains that compensation for professional engineering and design services based on a "cost-plus-a-percentage-of-cost" method could lead to increased contract costs. Therefore, the regulation prohibits this method of payment.

One State requested that the lump sum method of payment be allowed for construction inspection services when well defined items of work can be determined prior to the work being done. The FHWA agrees and the regulation has been modified to allow the lump sum method of payment for inspection services when the agency can establish the extent, scope, complexity, character and duration of the work to be required to a degree that fair and reasonable compensation including a fixed fee can be determined.

One State requested that variations of the four methods of payment be allowed. Any of the four methods specified in the regulation, or variation that primarily uses these methods is allowed by the regulation.

One engineering firm requested that paragraph (c)(3) specify that the maximum amount payable relate only to the profit portion of the contract and not the reimbursable portion. Contracts using Federal-aid highway funds require the inclusion of a maximum cost limit in order to prevent the expenditure of Federal funds that have not been authorized. Since the maximum amount payable phrase refers to the maximum contract cost that is allowable without processing a contract modification, this provision was not modified.

There were seven comments from engineering societies, associations and firms requesting that the lower limit for the fixed fee range in paragraph (d) be raised from six to ten percent. The FHWA maintains that consultant fees should be negotiated on facts pertinent to the specific contract, namely: type/complexity of work, degree of risk, consultant investment, project duration and overhead. Since fee ranges for contracts can vary significantly, the six percent lower limit stated in the regulation is being retained.

Two engineering firms requested that the practice of setting overhead rate and salary caps by some States be disallowed. The FHWA does not have statutory authority to prohibit States from setting maximum limits on these items.

Section 172.11 Contract Modification

This section defines when contract modifications are required and requires agencies to: (1) Clearly document the changes and method of compensation; (2) properly negotiate changes; and (3) obtain FHWA approval before executing the contract modification.

One State and five engineering firms requested that the term "significantly," relating to the degree of contract changes requiring a contract modification, be deleted from paragraphs (a) and (c). The FHWA maintains that this term is necessary. The regulation requires modifications any time there is a change in the "cost" of the contract. However, changes to the character, scope, complexity or duration of work would not require modifications unless they are considered "significant." The term "significantly" makes it clear that minor changes or adjustments in these items do not require contract modifications or FHWA approval, thereby reducing paperwork and project delays. Large changes would require modifications and FHWA approval to assure the work is eligible for Federal reimbursement. Therefore, the term "significantly" has not been deleted in the regulation.

One State requested that States be allowed to approve extra work changes without getting the FHWA's approval. The FHWA needs to approve contract modifications in order to assure that the work is eligible for Federal funding and that sufficient Federal funds are available.

Section 172.13 Monitoring the Contract Work

This section requires that a qualified public employee be placed in responsible charge of each contract, identifies what this employee must do and requires the employee to write a performance evaluation report after the contract is completed.

Performance evaluations are appropriate because the "Brooks Bill" clearly requires agencies to "evaluate current statements of qualifications and performance data on file with the agency" during the selection process. Without performance evaluations, the contracting agencies might not have all the information needed to correctly select the "most technically qualified" firm.

Two States remarked that making performance evaluations for contracts less than $250,000 would impose additional work on their State and two States requested that the evaluations be at the State's option. Three engineering firms requested that performance evaluations be limited to contracts over $250,000 and seven engineering associations, societies and firms requested that the consultant firm be allowed to review and comment on the performance evaluation. The FHWA has concluded that having current information on a firm's prior performance is in accordance with the "Brooks Bill" because the "Brooks Bill" requires negotiations and selection to be based on "qualifications and performance data." Therefore, performance evaluations are required on projects using Federal-aid highway funds, except for contracts let under the small purchase procedures. The regulation has been revised to give firms the opportunity to comment on the evaluation.

In response to a request for additional information on consultant liability, a new paragraph (c) was added to address a process for obtaining correction of design errors and for assigning liability for the cost associated with supplemental construction work needed to correct the errors.

Two States thought that requiring a public employee to be in "responsible charge" of each contract might cause staffing or funding problems for their State. The FHWA maintains that State and/or local monitoring requirements are necessary for the proper control of the work and to allow knowledgeable completion of the performance evaluations. Under 23 U.S.C. 302, States are required to "be suitably equipped and organized to discharge to the satisfaction of the Secretary the duties required by this title."

One State requested that paragraph 172.13(a)(3), requiring States to visit every consultant's office on every contract should be left to the discretion of the State. This paragraph does not require visits to the consultant's office for each monitoring review. It allows States to determine the frequency of reviews, as long as the number and place of reviews is appropriate for the specific contract size and type of work undertaken.

Section 172.15 Alternate Procedures

This section establishes a process whereby the contracting agency can be authorized to substitute its contract review and approval actions for those of the FHWA.

One State thought that providing copies of executed contracts, in accordance with paragraph 172.15(d), to the FHWA would add paperwork and is unnecessary. The FHWA needs copies of executed contracts approved by States under alternate procedures to verify project cost in order to provide for the obligation of Federal funds.

One individual asked whether contracts to design federally funded "off-system" projects could be included under alternate procedures. Paragraph 172.15 has been revised to allow coverage of all Federal-aid highway funded contracts without reference to any Federal-aid system.

Federalism Implications

The FHWA has carefully reviewed this action in light of the Executive Order on federalism (Executive Order 12612, October 26, 1897). In his Executive Order on federalism, the President ordered Executive Departments and agencies to be guided by certain fundamental federalism principles in formulating and implementing policies that have federalism implications. These policies have been taken fully into account in the development of this regulation, as the following paragraphs indicate.

This action implements section 111(b) of the 1987 STURAA that amended section 112 of title 23, U.S.C. Section 112(b)(2) requires contracts for engineering and design services for highway construction projects performed by a State highway department or under its supervision to be awarded in the same manner as contracts for architectural and engineering services negotiated under title IX of the Federal Property and Administrative Services Act of 1949, as amended, or equivalent State qualifications-based requirements, except to the extent that a State adopts or has adopted by statute a formal procedure for the procurement of such services.

This action will not impose a significant burden upon State and local governments. The rule permits States to use equivalent State qualifications-based procedures or procedures established or subsequently established in State statutes. The cost to State and local governments to implement this regulation, if any, will be minimal since all costs that are directly attributable to an individual project are reimbursable under the Federal-aid highway program.

The statutory basis for this action has been outlined above. This final rule limits the policymaking discretion of the States only in narrow ways, and does so

only to achieve the requirements of section 112(b)(2) of 23 U.S.C., other statutory requirements and the FHWA's stewardship responsibilities. Accordingly, it is certified that the policies contained in this document have been reviewed in light of the principles, criteria, and requirements of the Federalism Executive Order, and accord fully with the letter and spirit of the President's Federalism initiative. Based on the analysis, the FHWA has determined that this rulemaking does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Regulatory Impact

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or a significant regulation under the regulatory policies and procedures of the Department of Transportation. Accordingly, a full regulatory evaluation is not required. It is anticipated that the regulatory impact of this rulemaking, if any, will be minimal since it replaces the prior FHWA regulation on negotiated contract procedures and delineates procedures consistent with Federal statutes and the common rule. Thus States using procedures based on the prior regulation, for evaluating, selecting and negotiating these contracts, will find the actions required by this regulation easy to integrate into their existing procedures. The regulation will impose some mandatory standards on State and local governments that are required by Federal statutes and provide general procedural direction and recommended criteria to ensure conformance with the statutes.

The regulation provides an opportunity to effect a reduction in the time required to process the award of a contract by establishing an alternate procedure for project approval that allows States to substitute their contract review and approval actions for that of the FHWA.

The revisions will increase the number of consultants receiving consideration for providing engineering and design services by giving contracting agencies numerous ways to advertise the work and requiring technical proposals to be requested from a minimum of three qualified firms.

For the foregoing reasons, which also apply to small entities, and under the criteria of the Regulatory Flexibility Act (Pub. L. 96–354), the FHWA hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

(Catalog of Federal Domestic Assistance program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

In consideration of the foregoing, the FHWA hereby revises part 172 of chapter I of title 23, Code of Federal Regulations, as set forth below.

List of Subjects in 23 CFR Part 172

Government procurement, Grant programs—transportation, Highways and roads.

Issued on: April 23, 1991.

T.D. Larson,

Administrator.

The FHWA revises 23 CFR part 172 to read as follows:

PART 172—ADMINISTRATION OF ENGINEERING AND DESIGN RELATED SERVICE CONTRACTS

Sec.

Authority: 23 U.S.C. 112(b), 114(a), 302, 315, and 402; 23 CFR 17; 48 CFR 12 and 31; 49 CFR 1.48(b); 49 CFR 18; 41 U.S.C. 253 and 259.

§ 172.1 Purpose and applicability.

(a) To prescribe policies and procedures for contracting to ensure that a qualified consultant is obtained through an equitable selection process, and that prescribed work is properly accomplished in a timely manner, at a reasonable cost.

(b) This regulation applies to all engineering and design related service contracts financed with Federal-aid highway funds. Agencies with approved Certification Acceptance Plans (CA), Secondary Road Plans (SRP) and/or Combined Road Plans (CRP) shall submit for the Federal Highway Administration's (FHWA) approval, procedures consistent with this regulation if they intend to utilize Federal-aid highway funds for any of the above contract types. The use of procedures codified in State statutes to select consultant firms is also acceptable. Other types of negotiated contracts should be administered under the requirements of the common grant management rule, 49 CFR 18.

§ 172.3 Definitions.

(a) *Competitive negotiation.* Any form of negotiations that utilizes, (1) qualifications-based procedures complying with title IX of the Federal Property and Administrative Services Act of 1949 (Pub. L. 92–582, 86 Stat. 1278 (1972)), (2) equivalent State qualifications-based procedures or (3) a formal procedure permitted by State statute.

(b) *Consultant.* The individual or firm providing engineering and design related services as a party to the contract.

(c) *Contract modification.* An agreement modifying the existing contract, such as an agreement to accomplish work beyond the scope of the original contract.

(d) *Contracting agency.* The State highway agency or local governmental agencies which have responsibility for the procurement.

(e) *Engineering and design services.* Contracts for project management, construction management and inspection, feasibility studies, preliminary engineering, design engineering, design, engineering, surveying, mapping and architectural related services.

(f) *Extra work.* Any services or actions required of the consultant above and beyond the obligations of the original or modified contract.

(g) *Fixed fee.* A dollar amount established to cover the consultant's profit and business expenses not allocable to overhead.

(h) *Prenegotiation audit.* An examination of a consultant's records made in accordance with generally accepted auditing standards.

(i) *Scope of work.* All services and actions required of the consultant by the obligations of the contract.

§ 172.5 General Principles.

(a) *Need for consultant services in management roles.* When Federal-aid highway funds participate in the contract, the contracting agency shall receive approval from the FHWA before hiring a consultant to act in a "management" role for the contracting agency. This concept should be limited to situations where unique or unusual circumstances exist and where the contracting agency has provided adequate justification to explain its reason for using a consultant in this role and the reason it cannot perform the work.

(b) *Written procedures.* The contracting agency shall prepare written procedures for each method of procurement it proposes to utilize. These procedures and all revisions shall be approved by the FHWA and describe, as appropriate to the particular method of procurement, each step used:

(1) In preparing a scope of work, evaluation factors and cost estimate for selecting a consultant,

(2) In soliciting proposals from prospective consultants,

(3) In the evaluation of proposals and the ranking/selection of a consultant,

(4) In negotiation of the reimbursement to be paid to the selected consultant,

(5) In monitoring the consultant's work and in preparing a consultant's performance evaluation when completed, and

(6) In determining the extent to which the consultant, who is responsible for the professional quality, technical accuracy, and coordination of services, may be reasonably liable for costs resulting from errors or deficiencies in design furnished under its contract.

(c) *Prenegotiation audits.* The contracting agencies shall prepare prenegotiation audits to provide the necessary data to assure that the consultant has an acceptable accounting system, adequate and proper justification of the various rates charged to perform work and is aware of the FHWA's cost eligibility and documentation requirements.

(1) Prenegotiation audits and the resultant audit opinions are required for all contracts expected to exceed $250,000 and for contracts of less than $250,000 where:

(i) There is insufficient knowledge of the consultant's accounting system,

(ii) There is previous unfavorable experience regarding the reliability of the consultant's accounting system, or

(iii) The contract involves procurement of new equipment or supplies for which cost experience is lacking.

(2) The use of an independent audit, an audit performed by another State/Federal agency or an audit performed by another local governmental agency is acceptable if the information is current and of sufficient detail.

(3) Prenegotiation audits may be waived when sufficient audited consultant data is available to permit reasonable comparisons with the cost proposal.

(d) *State responsibility in local agency contracts.* The State highway agency shall ensure that procurement actions by or through other State agencies or local agencies comply with this regulation. When Federal-aid highway funds participate in the contract, a local agency shall use the same procedures as used by the State to administer contracts not under CA, the SRP or the CRP. These contracts shall be subject to the prior approval of the State highway agency and the FHWA. Nothing herein shall be taken as relieving the State of its responsibility under Federal-aid highway laws and regulations for the work to be performed under any agreements entered into by a local agency.

(e) *Disadvantaged Business Enterprise (DBE) program.* The contracting agency shall give consideration to DBE firms in the procurement of engineering and design related service contracts subject to 23 U.S.C. 112(b)(2).

(f) *Contractual responsibilities.* The contracting agency or State highway agency shall be responsible for the settlement of all contractual/administrative issues. All settlements shall be reviewed and approved by the FHWA before Federal-aid highway funds can participate in any additional costs.

§ 172.7 Methods of procurement.

This regulation addresses three methods of procurement for the hiring of consultants to perform engineering and design related services specified in 23 U.S.C. 112(b)(2). These methods are: competitive negotiations which follows qualifications-based selection procedures or another selection procedure permitted by State statutes; small purchase procedures for small dollar value contracts; and non-competitive negotiations where specific conditions exist allowing negotiations to take place with a single firm.

(a) *Competitive negotiation.* Competitive negotiation should be used for the selection of a consultant to provide engineering and design related services. The following procedures shall apply to the competitive negotiation process:

(1) *Scope, evaluation factors and cost estimate development.* The contracting agency shall prepare:

(i) A scope of work before issuing a Request for Proposal that reflects a clear, accurate, and detailed description of the technical requirements for the services to be rendered and a list identifying the evaluation factors and their relative importance.

(ii) A detailed cost estimate, except for contracts awarded under small purchase procedures, with an appropriate breakdown of specific types of labor required, work hours, and an estimate of the consultant's fixed fee (considering the risk and complexity of the project) for use during negotiations.

(2) *Soliciting proposals.*

(i) *Solicitation.* The solicitation process shall be by advertisement (project, task or service), by mailing Requests for Proposals to certified/prequalified consultants, or any other method that ensures qualified in-State and out-of-State consultants are given the opportunity to be considered for award of a contract. It shall include a process where either:

(A) General interest is solicited for performing the work; responding consultants are ranked based on an evaluation of their qualification statements (submitted with their letters of interest or on file with the contracting agency); and proposals are requested from three or more firms starting with the highest ranked firm, or

(B) Proposals are solicited from all consultants that are interested in being considered for the work.

(ii) *Request for proposal.* The request for proposal shall:

(A) Provide a description of the scope of work and identification of the evaluation factors including their relative importance as included in paragraph (a)(1) of this section.

(B) Specify the method(s) of payment (lump sum, cost plus a fixed fee, cost per unit of work, or specific rate(s) of compensation).

(C) Request the submission of a proposal. Priced proposals may be used in the selection phase if allowed for under a State statute, but shall not be used in the selection phase when qualifications-based procedures are used.

(D) Allow sufficient time for the consultant to prepare and submit the proposal.

(3) *Analysis and selection.*

(i) The consultants' proposals, containing the information required by paragraph (a)(2) of this section, shall be evaluated and ranked by the contracting agency. This process shall include an analysis of the proposals in comparison to the evaluation factors. In addition, the consultants' applicable work experience, present workload, past performance, staffing capabilities, etc., should be evaluated and included in the ranking process.

(ii) The award of engineering and design related services shall:

(A) Utilize qualifications-based procedures that either comply with the provisions of Title IX of the Federal Property and Administrative Services Act of 1949 (Pub. L. 92-582, 86 Stat. 1278 (1972), as amended) or utilize equivalent

State qualifications-based procedures, or

(B) Utilize a formal procurement procedure that is established by State statute or is subsequently established by State statute.

(iii) The contracting agency shall retain acceptable documentation of the proposal, evaluation and selection of the consultant. Records shall be maintained in accordance with the provisions of 49 CFR 18.42.

(4) *Negotiation responsibilities.*

(i) The negotiator shall use all resources available to conduct effective negotiations, including but not limited to, the refined scope of work, the evaluation factors and their relative importance, the agency's cost estimate as required in paragraph (a)(1) of this section and the audit opinion issued as a result of the prenegotiation audit required in § 172.5(c) of this part.

(ii) The negotiator shall separately negotiate the dollar amounts for elements of cost and a fixed fee except for services normally negotiated on a per unit (includes costs and fees) cost.

(iii) The contracting agency shall maintain records of negotiations to document negotiation activities and set forth the resources considered by the negotiator. Records shall be maintained in accordance with the provisions of 49 CFR 18.42.

(5) *Execution of contracts.* The proposed contract including the agreed upon cost figures shall be submitted to the FHWA for approval prior to its execution.

(b) *Small purchases.* Contracting agencies may use small purchase procedures for the procurement of engineering and design related services when the contract cost does not exceed $25,000.

(c) *Noncompetitive negotiation.* Noncompetitive negotiation may be used to obtain engineering and design related services when the award of a contract is not feasible under small purchase or competitive negotiation procedures. The contracting agency shall submit justification and receive approval from the FHWA before using this form of contracting when Federal-aid highway funds are used in the contract.

(1) Circumstances under which a contract may be awarded by noncompetitive negotiation are limited to the following:

(i) The service is available only from a single source, or

(ii) There is an emergency which will not permit the time necessary to conduct competitive negotiations, or

(iii) After solicitation of a number of sources, competition is determined inadequate.

(2) The contracting agency shall comply with the following procedures for noncompetitive negotiations:

(i) Establish a process to determine when noncompetitive negotiation will be used,

(ii) Develop an adequate scope of work, evaluation factors and cost estimate as required in paragraph (a)(1) of this section,

(iii) Conduct negotiations as required in paragraph (a)(4) of this section, and

(iv) Submit the proposed contract and cost estimate to the FHWA for approval.

§ 172.9 Compensation.

(a) Contracting agencies may establish cost principles for determining the reasonableness and allowability of costs. Federal reimbursement shall be limited to the Federal share of the costs allowable under the cost principles in 48 CFR Part 31 (Federal Acquisition Regulations). Any references included in 48 CFR Part 31 to other parts of 48 CFR do not apply to these contracts.

(b) Applicable cost principles shall be referenced in each contractual document.

(c) Methods of payment.

(1) The method of payment to compensate the consultant for all work required shall be set forth in the original contract and in any contract modifications thereto. It may be a single method for all work or may involve different methods for different elements of work. The methods of payment which shall be used are: lump sum, cost plus fixed fee, cost per unit of work or specific rates of compensation.

(2) Compensation based on cost plus a percentage of cost or percentage of construction cost shall not be used.

(3) When the method of payment is other than a lump sum, the contract shall specify a maximum amount payable which shall not be exceeded unless adjusted by a contract modification.

(4) The lump sum method shall not be used to compensate a consultant for construction engineering and inspection services except when the agency has established the extent, scope, complexity, character and duration of the work to be required to a degree that fair and reasonable compensation including a fixed fee can be determined.

(d) Fixed fees.

(1) The determination of the amount of the fixed fee shall take into account the size, complexity, duration, and degree of risk involved in the work. The establishment of the fixed fee shall be project specific.

(2) Fixed fees normally range from 6 to 15 percent of the total direct and indirect cost. Subject to the approval of the FHWA, a fixed fee over 15 percent may be justified when exceptional circumstances exist.

§ 172.11 Contract modifications.

(a) Contract modifications are required for any modification in the terms of the original contract that change the cost of the contract; significantly change the character, scope, complexity, or duration of the work; or significantly change the conditions under which the work is required to be performed.

(b) A contract modification shall clearly outline the changes made and determine a method of compensation. FHWA approval of contract modifications shall be obtained prior to beginning the work except as discussed in paragraph (d) of this section.

(c) Overruns in the costs of the work shall not warrant an increase in the fixed fee portion of a cost plus fixed fee contract. Significant changes to the Scope of Work may require adjustment of the fixed fee portion in a cost plus fixed fee contract or in a lump sum contract.

(d) In unusual circumstances, the consultant may be authorized to proceed with work prior to agreement on the amount of compensation and execution of the contract modification, provided the FHWA has previously approved the work and has concurred that additional compensation is warranted.

§ 172.13 Monitoring the contract work.

(a) A public employee qualified to ensure that the work being pursued is complete, accurate and consistent with the terms, conditions, and specifications of the contract shall be in responsible charge of each contract or project. The employee's responsibilities include:

(1) Scheduling and attending progress meetings with the consultant and being involved in decisions leading to change orders or supplemental agreements,

(2) Being familiar with the qualifications and responsibilities of the consultant's staff,

(3) Visiting the project and/or consultant's offices on a frequency that is commensurate with the magnitude, complexity and type of work. This includes being aware of the day-to-day operations for Construction Engineering Service contracts, and

(4) Assuring that costs billed are

consistent with the acceptability and progress of the consultant's work.

(b) A final performance evaluation report, except for contracts awarded under small purchase procedures shall be prepared by the public employee in responsible charge of the contract and shall be submitted to the State highway agency's contracting office. The report should include, but not be limited to, an evaluation of such items as timely completion of work, conformance with contract cost and the quality of work. A copy of the report shall be sent to the firm for its review and/or comments and any written comments submitted to the contracting agency by the firm shall be attached to the final report.

(c) Contracting agencies should include a clause in engineering contracts requiring the consultant to perform such additional work as may be necessary to correct errors in the work required under the contract without undue delays and without additional cost to the owner. However, in general, a consultant should not be held responsible for additional costs in subsequent related construction resulting from errors or omissions which are not a result of gross negligence or carelessness.

§ 172.15 Alternate Procedures.

(a) This is a process whereby the contracting agency can be authorized to substitute its contract review and approval actions for those of the FHWA. Before a contracting agency can operate under the alternate procedures concept, it shall submit procedures to the FHWA that include the following:

(1) A formal request to operate under the alternate procedure concept.

(2) The written procedures, as required by § 172.5(b) of this part, it will follow, and

(3) A statement signed by the chief administrative officer of the contracting agency certifying that it will conform with its written procedures, the provisions of this regulation, and all applicable Federal and State laws and administrative requirements.

(b) The alternate procedures and all revisions shall be approved by the FHWA.

(c) The alternate procedures concept may apply to all Federal-aid highway funded contracts.

(d) A copy of the original executed contract and all contract modifications shall be submitted to the FHWA.

[FR Doc. 91-10092 Filed 4-29-91; 8:45 am]

BILLING CODE 4910-22-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-3952-3]

Michigan: Schedule of Compliance for Modification of Michigan's Hazardous Waste Program

AGENCY: Environmental Protection Agency, Region V.

ACTION: Notice of Michigan's Compliance Schedule to adopt program modifications.

SUMMARY: On September 22, 1986, U.S. EPA promulgated amendments to the deadlines for State program modifications and published requirements for States to be placed on a compliance schedule to adopt necessary program modifications. EPA is today publishing a compliance schedule for Michigan to modify its program in accordance with § 271.21(g) to adopt Federal program modifications.

FOR FURTHER INFORMATION CONTACT: Judy Greenberg, Michigan Regulatory Specialist, RCRA Program Management Branch, U.S. Environmental Protection Agency, Region V, 5HR-JCK-13, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-4179 [FTS: 8-886-4179].

SUPPLEMENTARY INFORMATION:

A. Background

Final authorization to implement the Michigan hazardous waste program within the State in lieu of the Federal hazardous waste program is granted by EPA if the Agency finds the State program: (1) Is "equivalent" to the Federal program; (2) is "consistent" with the Federal program and other State programs; and (3) provides for adequate enforcement (Section 3006(b), 42 U.S.C. 6926(b)). EPA regulations for final authorization appear at 40 CFR 271.1-271.25. In order to retain authorization, a State must revise its program to adopt new Federal requirements by the cluster deadlines and procedures specified in 40 CFR 271.21. See 51 FR 33712, September 22, 1986, for a complete discussion of these procedures and deadlines.

B. Michigan

Michigan received final authorization of its hazardous waste program on October 30, 1986 (see 51 FR 36804, October 16, 1986). Effective January 23, 1990, EPA granted authorization to Michigan for revisions to its hazardous waste program (see 54 FR 48608). On August 29, 1990, Michigan submitted a request under the provisions of 40 CFR 271.21(e)(3) for an extension of time of six months to obtain necessary program revisions. On January 25, 1991, Michigan submitted a request under the provisions of 40 CFR 271.21(g)(1)(v) for an extension of time of an additional year in order to complete the necessary program revisions. Today, U.S. EPA is publishing a compliance schedule for Michigan to complete program revisions for the following Federal regulations:

1. Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank Systems, 53 FR 34079, September 2, 1988.

2. Identification and Listing of Hazardous Waste; and Designation, Reportable Quantities, and Notification, 53 FR 35412, September 13, 1988.

3. Statistical Methods for Evaluating Ground-Water Monitoring Data from Hazardous Waste Facilities, 53 FR 39720, October 11, 1988.

4. Hazardous Waste Miscellaneous Units; Standards Applicable to Owners and Operators, 54 FR 615, January 9, 1989.

5. Amendment to Requirements for Hazardous Waste Incinerator Permits, 54 FR 4286, January 30, 1989.

6. Direct Action Against Insurers, HSWA section 3004(t).

7. Corrective Action, 50 FR 28702, July 15, 1985.

8. Sharing of Information with the Agency for Toxic Substances and Disease Registry, HSWA section 3019(b).

The deadline under 40 CFR 271.21 for Michigan to adopt these Federal regulations was July 1, 1990. However, the State's rulemaking has been delayed due to the lack of statutory authority in Michigan for corrective action, direct action against insurers, and sharing of information with the Agency for Toxic Substances and Disease Registry. The rules package cannot be taken to the State legislature until the statute has been amended. The statutory amendment is expected to be introduced to the legislature during May 1991.

The State has agreed to complete the needed program revisions to its authorized program according to the following schedule:

1. The Department of Natural Resources will submit the proposed rule package to the State Legislative Service Bureau by September 1, 1991.

2. The Legislative Service Bureau will submit the proposed rule package to the Michigan Department of Attorney General by September 30, 1991.

3. The Michigan Department of Attorney General will submit the rule package to the legislative Joint Committee on Administrative Rules by October 31, 1991.

4. The Joint Committee on Administrative Rules will conduct a committee hearing and issue a determination by December 31, 1991.

5. Once the proposed rule package is approved by the Joint Committee on Administrative Rules, the rules will be submitted to the Michigan Secretary of State for codification in the Act 64 administrative rules.

Michigan expects to submit an application to U.S. EPA requesting authorization for the Federal regulations listed above by February 28, 1992.

Authority: This notice is issued under the authority of Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the RCRA of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: April 17, 1991.

Ralph Bauer,

Acting Regional Administrator.

[FR Doc. 91-10144 Filed 4-29-91; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6854

[ID-943-4214-10; IDI-27721, IDI-27872]

Partial Revocation of the Secretarial Orders Dated May 20, 1926, and March 26, 1930; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes two Secretarial Orders insofar as they affect 5 acres of National Forest System land withdrawn for the Bureau of Land Management Powersite Classification No. 146 and the Bureau of Reclamation Owyhee Reclamation Project in the Boise National Forest. The withdrawals are being revoked so the Forest Service can transfer the land to the Department of Energy to clean up radioactive sands left over from the trespass milling of rare earths on the land. The land is not needed for reclamation or powersite purposes. This action will open the land to surface entry and mining. The land has been and will remain open to the mineral leasing laws.

EFFECTIVE DATE: May 30, 1991.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievsay, BLM Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706, (208) 334-1735.

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 Orders dated May 20, 1926, and March 26, 1930, which withdrew the land for the Bureau of Land Management Powersite Classification No. 146 and the Bureau of Reclamation Owyhee Reclamation Project, respectively, are hereby revoked insofar as they affect the following described land:

Boise Meridian

T. 9 N., R. 7 E.,
sec. 27, NE¼SE¼SE¼SE¼ and SE¼NE¼SE¼SE¼.

The area described contains 5 acres in Boise County.

2. At 9 a.m. on May 30, 1991, the lands shall be opened to such forms of disposition as may by law be made of National Forest System lands, including location and entry under the United States mining laws. Appropriation of the land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: April 23, 1991.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 91-10128 Filed 4-29-91; 8:45 am]

BILLING CODE 4310-66-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Family Support Administration

45 CFR Part 402

RIN 0970-AA73

State Legalization Impact Assistance Grants (SLIAG)

AGENCY: Family Support Administration, HHS.

ACTION: Final rule with comment.

SUMMARY: This rule amends Department regulations implementing the State Legalization Impact Assistance Grant (SLIAG) program, 45 CFR part 402, published at 53 FR 7832 et seq. (March 10, 1988). The amendments incorporate references to new Departmental grant administration regulations at 45 CFR part 92, which are applicable to most grants awarded by the Department of Health and Human Services after October 1, 1988 to States, local governments, and Federally recognized Indian tribes. This regulation also implements technical amendments made to the Immigration Reform and Control Act of 1986, the authorizing legislation for SLIAG by the Immigration Technical Corrections Act of 1988 (Pub. L. 100-525).

DATES: *Effective:* April 30, 1991. Comments must be received on or before May 30, 1991.

ADDRESSES: Comments may be mailed to: Family Support Administration, Attention: David B. Smith, Mail Stop: ORR, 370 L'Enfant Promenade, SW., Washington, DC 20447.

FOR FURTHER INFORMATION CONTACT: David B. Smith, Director, Division of State Legalization Assistance, at 202-401-9255.

SUPPLEMENTARY INFORMATION: Section 204 of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603), enacted on November 6, 1986, establishes State Legalization Impact Assistance Grants (SLIAG) for States, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam for fiscal years 1988 through 1991. (The term "State" is used hereinafter as defined in the current SLIAG regulation, that is, to include all eligible SLIAG grantees.) States may use (obligate) SLIAG grant funds through September 30, 1994. The purpose of SLIAG is to alleviate some of the financial impact on State and local governments that may result from the legalization of aliens under the Immigration Reform and Control Act (IRCA).

On March 10, 1988, the Department published a final rule implementing section 204 of IRCA. (These regulations, 45 CFR part 402, were published at 53 FR 7832 et seq.) These amendments to the final rule are designed to make certain conforming modifications based on Departmental and Congressional actions since the publication of the final rule. The Department finds good cause for dispensing with a notice of proposed rulemaking and attendant procedures because the technical and conforming nature of these amendments renders prior notice and public comment unnecessary. A subsequent 30 day comment period will be provided.

Amendments to reflect 45 CFR part 92

Effective October 1, 1988, 45 CFR part 92, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," replaced 45 CFR

part 74 for the administration of most HHS grants to States, local governments, and Federally recognized Indian tribes, including SLIAG. Part 74 will no longer be applicable to grants covered by part 92, i.e., for FY 1989 and subsequent fiscal years' SLIAG grants. We are therefore amending those sections of the current regulation affected by this change.

This amendment incorporates references to Part 92 into 45 CFR part 402 where they do not conflict with the intentions of the citations to part 74 in the SLIAG regulation. In most instances, we have simply added a reference to part 92, in addition to the existing reference to part 74. Part 74 continues to apply to FY 1988 grants; part 92 applies to subsequent years' grants. This amendment, however, allows a State to apply any or all provisions of part 92 to FY 1988 SLIAG funds. This will simplify administration of the program.

There is an existing reference to part 74 in part 402 where we have not added a reference to part 92. Section 402.2 currently defines the term "Recipient" by incorporating the definition in part 74. Part 92 does not define the term "Recipient." Therefore, we have deleted the reference to part 74, and instead substituted the full text of the part 74 definition. This change will avoid confusion as to the definition of "Recipient" for fiscal years after FY 1988. This definition applies to all fiscal years' SLIAG grants.

This amendment incorporates the definition of "Local government" that is in part 92. This term also is defined in part 74. That definition is marginally different from the definition in part 92. We have incorporated the part 92 definition in order to avoid having two different definitions of this critical term in this temporary program. This definition applies to all SLIAG grants, beginning with FY 1988.

We have adopted the time limit for the expenditure of grant funds contained in part 92 for all years' SLIAG grants. Currently, grant funds subject to part 92 must be expended not later than 90 days after the end of the funding period. For FY 1989, 1990, and 1991 SLIAG grant funds, this date currently would be December 29, 1994, because section 204(b)(4) of IRCA allows States to obligate funds through September 30, 1994. The funding period of a SLIAG grant begins on October 1 of the Federal fiscal year for which the allotment is made and ends on September 30, 1994.

The SLIAG regulation currently requires that obligations by States be liquidated within 12 months of the end of the fiscal year in which the obligation was made. This requirement would continue in effect for FY 1988 grant funds if we did not amend the regulation to adopt the part 92 time limit. Without this amendment, States would have to cope with two time limits—one applicable to FY 1988 grant funds and another applicable to subsequent years' funds. We concluded that this was overly complicated and are therefore adopting a uniform rule for all SLIAG grant funds, i.e., the time period imposed by 45 CFR 92.23(b). Except for FY 1988 funds obligated by States in FY 1994, part 92 allows States more flexibility by allowing a longer period for the expenditure of grant funds.

Incorporation of Technical Amendments to IRCA

The Immigration Technical Corrections Act (Pub. L. 100–525), enacted on October 24, 1988, amends IRCA, the legislative authority for SLIAG. Section 2(k)(5) of the Immigration Technical Corrections Act (ITCA) provides that States may use SLIAG funds to reimburse the costs of public health assistance provided to aliens applying on a timely basis to become eligible legalized aliens under sections 245A, 210, or 210A of the Immigration and Nationality Act (INA). This amends section 204(c)(1)(B) of IRCA which restricted the use of funds for such purpose to those aliens applying only under section 245A of the INA. To conform with this provision, we have amended section 402.10 of the SLIAG regulation to allow States to use SLIAG funds to reimburse the costs of public health assistance provided to aliens who have applied to INS for lawful temporary resident status under sections 210, 210A, or 245A of the INA.

Another amendment to IRCA by ITCA necessitates that we amend § 402.33 to state that we will reallot among other States the designated allotment of any State that indicates in its application that it does not intend to use the full amount of its allocation in the fiscal year for which the application is made or any succeeding fiscal year before 1995. The reference to "any succeeding fiscal year before 1995" replaces "the succeeding fiscal year" both in IRCA and in the regulation.

There are other changes in the ITCA which affect section 204 of IRCA, but these changes are technical corrections to the statutory language and do not require any additional changes to the SLIAG regulation.

Required Consultation

Section 204(i) of IRCA requires that the Department consult with representatives of State and local governments in establishing regulations and guidelines for SLIAG. Section 204(e) of IRCA permits the Secretary to require the submission of reports in such form and containing such information as he deems necessary after consultation with States and the Comptroller General. Since these amendments are being made to conform the SLIAG regulation to existing Departmental and Congressional actions, and do not affect any other aspect of those regulations, including reporting requirements, we are publishing these amendments as a final rule. Any interested party that wishes to comment on these amendments may do so in accordance with the instructions already noted.

Regulatory Procedures

In accordance with 5 U.S.C. 605(b), the Secretary certifies that this rule does not have a significant adverse economic impact on small business entities. This rule is not a major rule within the meaning of section 1(b) of E.O. 12291.

Paperwork Reduction Act

Section 402.51 (c) and (e) of the SLIAG final rule contain information collection requirements which have been approved by the Office of Management and Budget under control number 0970–0079. There are no new information collection requirements contained in these amendments.

(Catalogue of Federal Domestic Assistance Program No. 93.025, State Legalization Impact Assistance Grants)

List of Subjects in 45 CFR Part 402

Administrative cost, Allocation formula, Aliens, Allotment, Education, Grant programs, Immigration, Immigration Reform and Control Act, Public assistance, Public health assistance, Reporting and recordkeeping requirements, State Legalization Impact Assistance Grants.

Dated: November 29, 1990.

Jo Anne B. Barnhart,

Assistant Secretary, Family Support Administration.

Approved: April 5, 1991.

Louis W. Sullivan,

Secretary of Health and Human Services.

For the reasons set out in the preamble, 45 CFR part 402 is amended as follows:

PART 402—STATE LEGALIZATION IMPACT ASSISTANCE GRANTS

1. The authority citation for part 402 is revised to read as follows:

Authority: 8 U.S.C. 1255a note, as amended.

2. Section 402.2 is amended by revising the definitions of "The Act," "Local government," and "Recipient," and by revising paragraph (2) in the last sentence of the definition of "SLIAG-related costs," to read as follows:

§ 402.2 Definitions.

* * * * *

The Act means the Immigration Reform and Control Act of 1986, Public Law 99–603, as amended.

* * * * *

Local government has the same meaning as in 45 CFR part 92.

* * * * *

Recipient means grantee or subgrantee.

* * * * *

SLIAG-related costs * * * (2) program income (as defined in 45 CFR 74.42 or 45 CFR 92.25(b), as applicable) received from or on behalf of eligible legalized aliens receiving services or benefits for which payment or reimbursement may be made under this part.

* * * * *

3. Section 402.10 is amended by revising paragraphs (a)(2) and (c) to read as follows:

§ 402.10 Allowable use of funds.

(a) * * *

(2) Public health assistance provided to an alien applying on a timely basis to become an eligible legalized alien under sections 245A, 210, or 210A of the INA.

* * * * *

(c) To the extent consistent with 45 CFR part 74 (for grants awarded in FY 1988) or 45 CFR part 92 (for grants awarded in FY 1989 and succeeding fiscal years) and § 402.22 of this part, funds provided under this part may be used for State and local costs associated with meeting the administrative requirements established by the Act and this part and the administrative costs associated with providing assistance or services to eligible legalized aliens under a program or activity that receives funds under this part.

* * * * *

4. Section 402.11 is amended by revising paragraph (e)(5) to read as follows:

§ 402.11 Limitations on use of SLIAG funds.

* * * * *

(e) * * *

(5) In no event may the amount paid to a local education agency or other provider of educational services exceed the actual costs of providing those services to eligible legalized aliens, as determined in accordance with 45 CFR part 74 (for grants awarded in FY 1988) or 45 CFR part 92 (for grants awarded in FY 1989 and succeeding fiscal years).

* * * * *

5. Section 402.20 is revised to read as follows:

§ 402.20 General provisions.

Except where otherwise required by Federal law, the Department rules codified at 45 CFR part 74 (for grants awarded in FY 1988) or 45 CFR part 92 (for grants awarded in FY 1989 and succeeding fiscal years), relating to the administration of grants, apply to funds awarded under this part. A State may, however, apply any or all provisions of part 92 to FY 1988 SLIAG funds.

6. Section 402.24 is revised to read as follows:

§ 402.24 Withholding.

After notice and opportunity for a hearing, the Secretary may withhold payment of funds to any State which is not using its allotment in accordance with the Act, these regulations, 45 CFR part 74 (for grants awarded in FY 1988) or 45 CFR part 92 (for grants awarded in FY 1989 and succeeding fiscal years), and terms of the grant award.

7. Section 402.26 is amended by adding a sentence to paragraph (a) and revising the first sentence of paragraph (b) to read as follows:

§ 402.26 Time period for obligation and expenditure of grant funds.

(a) * * * The funding period of a SLIAG grant begins on October 1 of the Federal fiscal year for which the allotment is made and ends on September 30, 1994.

(b) Obligations of funds by the State must be expended within the time limit set by 45 CFR 92.23(b). * * *

8. Section 402.33 is revised to read as follows:

§ 402.33 Allotment of excess funds.

If a State fails to qualify for an allotment in a particular fiscal year because it did not submit an approvable application by the deadline established in § 402.43 of this part, or is not allotted its designated allocation amount because it indicated in its application that it does not intend to use, in the fiscal year for which the application is made or in any succeeding fiscal year before FY 1995, the full amount of its allocation, funds which would otherwise have been allotted to the State in that fiscal year shall be allotted among the remaining States submitting timely approved applications in proportion to the amount that otherwise would have been allotted to such State in that fiscal year.

[FR Doc. 91–10081 Filed 4–29–91; 8:45 am]
BILLING CODE 4150–04–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87–431; RM–5819]

Radio Broadcasting Services; Cottonwood, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 240C1 for Channel 240A at Cottonwood, Arizona, and modifies the Class A license of Regency Communications Limited Partnership for Station KSMK–FM, as requested, to specify operation on the higher class channel, thereby providing that community with an expanded coverage FM service. *See* 52 FR 38797, October 19, 1987. Coordinates used for Channel 240C1 at Cottonwood are 34–41–12 and 112–07–00, with a site restriction 10.7 kilometers (6.6 miles) southwest of the community. Concurrence of the Mexican government has been received. With this action, the proceeding is terminated.

EFFECTIVE DATE: June 7, 1991.

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. 87–431, adopted April 11, 1991, and released April 23, 1991. 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, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

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 Arizona, is amended

by removing Channel 240A and adding Channel 240C1 at Cottonwood.

Federal Communications Commission.

Andrew J. Rhodes,

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

[FR Doc. 91-10114 Filed 4-29-91; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-645; RM-7556]

Radio Broadcasting Services; Jesup and Midway, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document reallots Channel 252C1 from Jesup to Midway, Georgia, and modifies the construction permit of Station WGCO(FM) to specify Midway, Georgia, as its community of license. The allotment of Channel 252C1 to Midway will provide the community with its first local aural FM service without depriving Jesup of its only aural service, in accordance with Section 1.420(i) of the Commission's Rules. See 56 FR 1508, January 15, 1991. Channel 252C1 can be allotted to Midway in compliance with the Commission's minimum distance separation requirements with a site restriction of 22.5 kilometers (14 miles) south of the community at petitioner's construction permit site. The coordinates for Channel 252C1 at Midway are North Latitude 31-36-45 and West Longitude 81-21-37. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 7, 1991.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-645, adopted April 11, 1991, and released April 23, 1991. 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, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

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 Georgia, is amended by removing Channel 252C1 at Jesup and adding Channel 252C1, Midway.

Federal Communications Commission.

Andrew J. Rhodes,

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

[FR Doc. 91-10115 Filed 4-29-91; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-23; RM-7150]

Radio Broadcasting Services; Buckhannon, WV

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Harlynn, Inc., substitutes Channel 228B1 for Channel 228A at Buckhannon, West Virginia, and modifies its license for Station WBTQ(FM) at Buckhannon to specify operation on the higher powered channel. *See* 55 FR 04208, February 7, 1990. Channel 228B1 can be allotted to Buckhannon in compliance with the Commission's minimum distance separation requirements at the site specified by the petitioner with a site restriction of 13 kilometers (8.1 miles) to avoid a short-spacing to Station WBNV, Channel 228A, Barnesville, Ohio. The coordinates for Channel 228B1 at Buckhannon are North Latitude 38-53-55 and West Longitude 80-08-22. Since Buckhannon is located within the protected areas of the National Radio Astronomy Observatory "Quiet Zone" at Green Bank, West Virginia, petitioner will be required to comply with the notification requirement of § 73.1030(a) of the Commission's Rules. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 10, 1991.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-23, adopted April 15, 1991, and released April 25, 1991. 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, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

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 West Virginia, is amended by removing Channel 228A and adding Channel 228B1 at Buckhannon.

Federal Communications Commission.

Andrew J. Rhodes,

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

[FR Doc. 91-10164 Filed 4-29-91; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN: 1018-AB52

Endangered and Threatened Wildlife and Plants; Endangered Status for the Lower Keys Population of the Rice Rat (Silver Rice Rat)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines endangered status for 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. This species is known to occur on eight 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 rule extends the protection of the Endangered Species

Act of 1973, as amended, to the silver rice rat.

EFFECTIVE DATE: May 30, 1991.

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

FOR FURTHER INFORMATION CONTACT: Mr. David J. Wesley, Field Supervisor, at the above address (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). *O. 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 *O. argentatus* could be separated from *O. 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. *O. argentatus* specimens had high scores for both ratios, and could be separated from 105 *O. 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), 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 Litte 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 12 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 5 specimens of *O. argentatus* available to them, which consisted of 4 subadults and 1 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. *Oryzomys 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 rate 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 (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. Therefore, 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 (55 FR 17648) 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. 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. On October 25, 1990 (55 FR 43002), the Service proposed to list the silver rice rat as an endangered species. That listing proposal constituted the Service's finding required by the Stipulation of Parties, and the final petition finding required by the Act for the silver rice rat.

Summary of Comments and Recommendations

Comments received in response to the Service's July 14, 1980, and April 26, 1990, review notices were summarized and responded to in the October 25, 1990, proposed rule.

In the October 25, 1990, proposed rule and associated notifications, all interested parties were contacted and requested to comment. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice was published in the Key West, Florida, Key West Citizen on November 11, 1990, inviting general public comment. Fourteen comments were received. The Florida Game and Fresh Water Fish Commission supported the proposal, regardless of how the taxonomic issue might be decided. Four conservation groups, the Service's Division of Research, and seven private individuals supported the proposed listing; one private individual opposed it. Issues raised by commentors and the Service's response to each are discussed below.

Issue 1: It is ludicrous to spend tax dollars to protect a destructive rodent. Service Response: The silver rice rat is a harmless native rodent that does not associate with humans or cause economic damage. It qualifies for the protection of the Endangered Species Act and the Service has accordingly proceeded with its listing.

Issue 2: The silver rice rat should be listed as a full species, not a population. Dr. Goodyear's paper, currently in press, defends this status. The combination of difference in pelage color and skull morphology found in the silver rice rat is sufficient, by the standards of mammalian taxonomy, to indicate a species-level difference. The Service has no persuasive reasons to reject species status. Service Response: Variation in mammalian pelage color and skull proportions are interpreted variously by taxonomists, and the Service is unaware of standards that would be generally applicable. Such characteristics might indicate specific, subspecific, or only populational differences. Taxonomic views on the status of the silver rice rat currently include opinions that the silver rice rat represents a species, a subspecies, or a population. Other mammalian taxa described as Florida Keys endemics (Key deer, Lower Keys cotton rat, keys rabbit) are currently considered subspecies. The Service's Division of Research considered subspecific standing the appropriate status for the silver rice rat. The Service appreciates the considerable time and effort Dr. Goodyear has expended to clarify the conservation and taxonomic status of the silver rice rat. At the same time, it appears that there will continue to be varying interpretations of the taxonomic (but not the conservation) status of this rodent. Listing under the Act does not require agreement or resolution of this particular taxonomic

question, and the protective measures of the Act will apply regrdless. Since valid disagreement remains about species status, the silver rice rat is being listed as a vertebrate population. Subspecific status appears warranted, but it is inappropriate for the Service to publish a new taxonomic combination in a listing regulation. Such taxonomic rearrangements should be published in the scientific literature.

Issue 3: The silver rice rat is less common on Raccoon Key than indicated by the Vessey *et al.* (1976) study; while they had a 9.5 percent capture rate, Dr. Goodyear had a rate of only 1.8 percent in subsequent status survey work. Therefore the silver rice rat cannot be considered common on Raccoon Key. Service Response: The Vessey *et al.* (1976) study demonstrates that silver rice rats may occur at densities similar to those of rice rats elsewhere. Since small rodent populations may fluctuate greatly over short periods, it is not surprising that capture rates could differ over time. The listing of the silver rice rat as an endangered rather than a threatened species is recognition of its rarity and the threats to its continued existence.

Issue 4: The Service should designate critical habitat for the silver rice rat. Collecting is not a threat to the rat, and therefore is not a justification for not designating critical habitat. Localities for the silver rice rat have already been published in a major scientific journal and are therefore public knowledge. Failure to designate critical habitat will deprive the silver rice rat of the most direct mechanism for protecting its habitat. Service Response: The Service's regulations concerning the designation of critical habitat (50 CFR 424.12) state that a designation of critical habitat is not prudent when one or both of the following situations exist:

1. The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the threat to the species, or

2. Such designation would not be beneficial to the species.

The Service determines that both situations apply to the silver rice rat. Unlike publication of locality information in a scientific journal, designation of critical habitat is a Federal regulation whose promulgation involves publicizing the location of species populations and possible economic impacts (see 50 CFR 424.19). Though critical habitat designation, by definition, affects only Federal agency actions, this can arouse concern and resentment on the part of private landowners, at the same time providing location data for this vulnerable species. This could result in human activities harmful to the silver rice rat and its habitat. The Service agrees that collecting does not now appear to be a serious current threat to the silver rice rat, but continues to believe that there is no conservation benefit offsetting the risk of future harm. The Service is dealing with isolated populations of an endangered species and prefers to risk erring on the side of caution.

Section 7(a)(2) of the Act requires Federal agencies to insure that their actions are not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat designated for any such species. The Service's section 7 regulations (50 CFR 402.02) define "jeopardize the continued existence" as to engage in an action that would reduce appreciably the likelihood of both the survival and recovery of a listed species. "Destruction or adverse modification" is defined as an alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. In practice, the threshold required to make a finding of "jeopardy" or "destruction or adverse modification" of critical habitat are identical. Review of Federal agency activities for the silver rice rat will therefore be no less rigorous for the silver rice rat than if critical habitat had been designated for this species. Most federally listed species do not have designated critical habitat, but the required section 7 consultations on Federal agency actions take place nonetheless. Federal agencies affected by the listing of the silver rice rat are discussed under "Available Conservation Measures" below.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Lower Keys population of the rice rat, or silver rice rat, should be classified as endangered. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to the silver rice rat in the Lower Keys (*Oryzomys palustris natator* (=*Oryzomys argentatus*)) 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 exposed 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 areas 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-night success over the course of her survey work, although she had an 8.6 percent 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 trap-night 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. Most zoologists and museum personnel would avoid activities that might place an endangered species in still greater jeopardy, but there is a need to ensure that the situation of the silver rice rat is recognized and that collection (which would be authorized for certain purposes) is properly regulated. Silver

rice rat populations on the on-road keys may have abnormally low densities, and unregulated collecting could have serious effects.

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 Boca 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 presently 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.

The Service has carefully assessed the best scientific and commercial information available regarding past, present, and future threats faced by the silver rice rat in determining to make this rule final. Based on this evaluation, the preferred action is to list the population as endangered. This classification is based on the fact that the silver rice rat occurs in relatively low numbers within a very restricted range, is facing further loss of habitat due to continuing development, and with further habitat fragmentation could reach a point where genetic variability is no longer sufficient to assure long-term survival of the population. There also appear to be threats from competition with the introduced black rat and from predation by raccoons in areas where they occur in abnormally high numbers. The silver rice rat population is in danger of becoming extinct throughout all or a significant portion of its range and thus meets the Act's definition for endangered as defined under section 3(6).

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 habitat 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 other human-related disturbances or threats, 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)(2) of the Act 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. 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 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, 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 wildlife species. It is also 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 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

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List of Subjects in 50 CFR Part 17

Endangered and threatened species, Imports, Exports, 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; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. 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	421	NA	NA
*	*	*	*	*	*	*	

Dated: April 22, 1991.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 91–10163 Filed 4–29–91; 8:45 am]

BILLING CODE 4310–55–M

Proposed Rules

Federal Register
Vol. 56, No. 83
Tuesday, April 30, 1991

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

[CN-91-006]

Revisions of User Fees for Cotton Classification, Testing and Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed Rule

SUMMARY: The Agricultural Marketing Service (AMS) proposes to maintain at the 1990 level the user fees charged to cotton producers for cotton classification services under the Cotton Statistics and Estimates Act in accordance with the formula provided in the Uniform Cotton Classing Fees Act of 1987. The 1991 user fee for this classification service would remain at $1.23 per bale.

Fees charged for cotton classification services under the U. S. Cotton Standards Act would be increased. Also, higher fees are proposed for other classification and testing services. These proposed fees are necessary to recover the increased costs of providing such services including administrative and supervisory costs.

DATES: Comments must be received by May 15, 1991.

ADDRESSES: Comments and inquiries should be addressed to Ronald H. Read, Cotton Division, AMS, USDA, Room 2641–S, P.O. Box 96456, Washington, DC 20090–6456. Comments will be available for public inspection during regular business hours at the above office in Rm. 2641–South Building, 14th & Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ronald H. Read, 202–447–2145.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed in accordance with Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be "non-major" since it does not meet the criteria for a major regulatory action as stated in the Order. The Administrator, Agricultural Marketing Service (AMS), has certified that this action will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because: (1) The proposed fee increases merely reflect a minimal increase in the cost-per-unit currently borne by those entities utilizing the services; (2) the cost increase will not affect competition in the marketplace; and (3) the use of classification and testing services and the purchase of standards is voluntary.

The information collection requirements contained in this proposed rule have been previously approved by the Office of Management and Budget and assigned OMB control numbers under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

It is anticipated that the proposed changes, if adopted, would be made effective July 1, 1991.

Fees for Classification Under the Cotton Statistics and Estimates Act of 1927

The user fee charged to cotton producers for manual classification services under the Cotton Statistics and Estimates Act (7 U.S.C. 473a) was $1.23 during the 1990 harvest season (54 FR 23449) as determined using the formula provided in the Uniform Cotton Classing Fees Act of 1987. The charges cover salaries, cost of equipment and supplies, and other overhead and include administrative and supervisory costs. This proposed rule would maintain the user fee for manual classification charged to producers at $1.23 per bale. This fee was calculated by adjusting the 1990 base fee for the rate of inflation and the projected size of the crop and adding a surcharge necessary to maintain a minimum operating reserve as required by the Act. The 1990 base fee is $1.25 per bale. A 4.3 percent, or five cents per bale, increase due to the Implicit Price Deflator of the Gross National product would be added to the $1.25 resulting in a 1991 base fee of $1.30 per bale. The 1991 crop is currently estimated at 16,490,000 running bales. The base fee would be decreased 5 percent based on the estimated size of the crop (one percent for every 100,000 bales or portion thereof above the base of 12,500,000 bales, limited to a maximum adjustment of 15 percent). This percentage factor would amount to a 20 cents per bale reduction and would be subtracted from the base fee of $1.30 per bale resulting in a fee of $1.10 per bale. There would be a surcharge of five cents added to the $1.10 per bale fee since the projected operating reserve is less than 25 percent. The five cent surcharge would result in a 1991 season fee of $1.15 per bale. Assuming a fee of $1.15, the projected operating reserve is six percent. An additional 8 cents per sample must be added to provide an ending accumulated operating reserve for the fiscal year of at least 10 percent of the projected cost of operating the program. This would establish the 1991 season fee at $1.23 per sample, the same as for 1990. Accordingly, no change to the language that appears in § 28.909(b) is necessary.

The additional fee for High Volume Instrument (HVI) classification would remain 50 cents per bale. Thus, the fee for HVI classification during the 1991 harvest season would remain at $1.73 per bale. As provided for in the Uniform Cotton Classing Fees Act of 1987, a 5 cent per bale discount would continue to be applied to voluntary centralized billing and collecting agents.

The fee for a manual review classification in § 28.911 would also remain at $1.23 per bale since the fee for review classification is the same as the original classification fee. Likewise, the fee for HVI review classification would remain at $1.73 per bale. Accordingly, since the 1991 harvest season fees for manual and HVI classification and review classification would be the same as the current fees, no change to the language of sections 28.909 and 28.911 concerning classification fees would be needed.

Printed cards that are both eye readable and machine scannable would be added to the current alternative methods of issuing Classification data in § 28.910. There is no additional fee if only one method of receiving data is requested. If the issuance of classification data is requested on printed cards as well as by another method, the fee for printed cards would be one cent per card issued, with a minimum fee of $10.00 per gin per season. The Cotton Division will provide computer punch cards that are both eye and machine readable for data issuance for cotton classed from the 1991 crop.

Computer punch cards will not be provided for the 1992 and subsequent crops, due to the obsolescence of card punch equipment. Also in § 28.910, the fee for a new memorandum would increase from $4.50 per sheet to a minimum of $5.00 per sheet or 15 cents per bale. The fee for returning samples after classification in § 28.911 would increase from 30 cents per sample to 35 cents per sample.

Fees for Classification Services Under the United States Cotton Standards Act

Certain cotton classification services are conducted under the United States Cotton Standards Act. Fees for these services have been reviewed. In order to recover increased costs, including supervision and overhead, it is proposed that the fees for classification of cotton or samples in § 28.116 be increased. The current additional fee of 30 cents per sample would increase to 35 cents per sample unless the sample becomes Government property immediately after classification.

The fee in § 28.117 for each new memorandum or certificate issued in substitution for a prior one would be increased from 10 cents per bale to 15 cents per bale. The minimum fee would be increased from $4.75 per sheet to $5.00 per sheet.

The specific fee prescribed in §§ 28.120 and 28.149 for Form C determinations would be removed. Industry requests for this service have been very rare.

The portion of the practical classing examination for staple length will no longer be offered since most all USDA length measurements are now determined by HVI. The fee in § 28.122 for the practical classing examination for grade would be reduced from $140.00 to $100.00.

Fees for Cotton Standards

Practical forms of the cotton standards are prepared and sold by the Cotton Division offices in Memphis, Tennessee, under the authority of the United States Cotton Standards Act (7 U.S.C. 51 *et seq.*). The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) directs that the price for standards will cover, as nearly as practicable, the costs of providing the standards.

This proposal would increase the fees listed in §§ 28.123 and 28.151 for practical forms of the cotton standards, including both grade and staple standards for American Upland cotton, American Pima cotton and for cotton linters. The fees need to be adjusted due to increased costs for salaries, preparation and delivery, and postage of the standards.

The fees for American Upland cotton grade standards would be increased from $110.00 to $120.00 f.o.b. Memphis, Tennessee, or overseas air freight collect. The price would be increased from $114.00 to $125.00 for domestic surface delivery and from $150.00 to $160.00 for overseas air parcel post delivered. The fees for American Upland staple standards f.o.b. Memphis and overseas airfreight collect would increase from $16.00 to $18.00. The domestic surface delivered fee would increase from $18.00 to $21.00 and the overseas air parcel post delivered fee would increase from $30.00 to $32.00. The fees for American Pima grade standards would increase from $140.00 to $155.00 f.o.b. Memphis or overseas air freight collect. The price would increase from $144.00 to $160.00 for domestic surface delivered and from $180.00 to $195.00 for overseas air parcel post delivered. Fees for American Pima staple standards would increase from $17.00 to $19.00 for f.o.b. Memphis and overseas air freight collect. The domestic surface delivered fee would increase from $19.00 to $22.00 and the overseas air parcel post delivered fee would increase from $31.00 to $33.00. The fees for linters grade standards would be increased from $110.00 to $120.00 f.o.b. Memphis or overseas air freight collect. The price for domestic surface delivery would increase from $114.00 to $125.00 and the price for overseas air parcel post delivery would increase from $150.00 to $160.00. The f.o.b. Memphis or overseas air freight collect fees for linters staple standards would increase from $18.00 to $20.00. The delivered price would increase from $20.00 to $23.00 for domestic and from $32.00 to $34.00 for overseas air parcel post.

Testing Services

Cotton testing services are provided by the USDA Laboratory in Clemson, South Carolina under the authority of the Cotton Statistics and Estimates Act of 1927 (7 U.S.C. 47l–478). The tests are available, upon request, to private sources on a fee basis. The Cotton Service Testing Amendment (7 U.S.C. 473d) specifies that the fees for the services be reasonable and cover as nearly as practicable the costs of rendering the services. The cost of providing these services has increased since the last fee increases in 1989 due to higher costs for salaries and miscellaneous overhead costs including supplies and materials. The fees for fiber and processing tests in § 28.956 would be increased.

AMS proposes to revise the instrument calibration and check materials listed in § 28.956. An instrument check program for High Volume Instrument (HVI) Systems would be added as item 1.1. Two samples will be sent to a participant for testing each month. The test results will be returned to the Cotton Division for summarization and report preparation. The summary report will show the averages of all participants for each measured property of each sample tested. An individualized report will show the deviations from the averages for a participant and will be provided that participant only. Proposed fees for this monthly service are $156.00 for surface delivery within the continental United States and $312.00 for air parcel post delivery outside the continental United States.

Item 3.0 would be revised by removing the reference to Nickerson-Hunter Cotton Colorimeters and the master diagram. Fees for furnishing the set of standard color tiles would be increased to $115.00 f.o.b. Memphis, Tennessee. AMS proposes to revise the fee structure to include the costs of delivery for these materials. The proposed fee for a set of standard color tiles surface delivered within the continental United States is $120.00. The proposed fee for air freight collect outside the continental United States is $115.00. The proposed fee for air parcel post delivery of a set of standard color tiles outside the continental United States is $155.00. AMS proposes to revise item 3.1 to provide for furnishing a single tile for use as a replacement in a set described in item 3.0 or as a calibration device for certain colorimeters. The fee for the single tile would be increased to $21.00 f.o.b. Memphis, Tennessee. A fee of $24.00 is proposed for surface delivery within the continental United States. The proposed fee for air freight collect outside the continental United States is $21.00. The fee of $34.00 is proposed for air parcel post delivery outside the continental United States.

Item 4.0 will be revised to make the calibration box applicable to all cotton colormeters. The fee structure would be revised to provide for the recovery of transportation charges applicable to the delivery of the box. The fee for a box f.o.b. Memphis, Tennessee will be increased to $40.00 each. The proposed fee for surface delivery of a box in the continental United States is $45.00. The proposed fee for air freight collect outside the continental United States is $40.00. The proposed fee for air parcel post delivery of a box outside of the continental United States is $80.00. The

current item 4.1 will no longer be available. Supplying new readings for samples in colormeter calibration boxes is unsatisfactory because the samples are in poor condition by the time new readings are needed. Further, only one client has requested this service in recent years. Elimination of this service will have no appreciable impact on the cotton industry. AMS is proposing to add as a revised item 4.1 a calibration sample box for trashmeters containing six cotton samples with trash readings in percent area. The fees for this item would be $40.00 f.o.b. Memphis, Tennessee; $45.00 surface delivered in the continental United States; $40.00 air freight collect outside the continental United States; and $80.00 delivered by air parcel post to destinations outside the continental United States.

AMS proposes to add additional tests in § 28.956. A single strand yarn strength test would be added as item 27.1. One hundred single strand strength determinations of a yarn sample would be made on the Statimat Tester and the average strength, elongation and coefficients of variation reported. The fee for this test would be $6.00 per sample. Imperfections in yarn would be added as item 28.2. Four tests per sample will be made on the Uster Eveness Tester and the averages of percent coefficients of variation and the thick places, thin places and neps, yarn imperfections, reported. The fee for this test would be $6.00 per sample.

AMS would speed the dissemination of reports. Additional copies of a test report routinely furnished with a test item would be sent by facsimile (FAX). The fee for proposed item 33.2, facsimile transmission of reports within the continental United States would be $2.00 per page and outside the continental United States would be $5.00 per page. AMS is proposing to require a minimum fee of $6.00 when furnishing additional copies of test data reports.

Equipment for conducting the open-end spinning test is no longer available. Item 20.1, Cotton Carded yarn spinning test (open-end) for short staple cottons is being removed. Test data are being calculated by computer and individual observations and calculations are no longer available. Item 31.0, Furnishing copies of test data worksheets, is being removed.

The fees for fiber and processing tests in § 28.956, except items 5.0, 10.0, 10.1, and 18.0 will be increased. The proposed fees and new services are as follows:

Item No.	New Service	Fee	
		Current	Proposed
1.0a		84.00	90.00
1.0b		88.00	95.00
1.0c		84.00	90.00
1.0d		124.00	130.00
	1.1a		156.00
	1.1b		312.00
2.0a		17.00	19.00
2.0b		18.00	21.00
2.0c		17.00	19.00
2.0d		27.00	29.00
2.1a		25.00	27.00
2.1b		27.00	30.00
2.1c		25.00	27.00
2.1d		39.00	41.00
3.0a		105.00	115.00
	3.0b		120.00
	3.0c		115.00
	3.0d		155.00
3.1a		17.00	21.00
	3.1b		24.00
	3.1c		21.00
	3.1d		34.00
4.0a		30.00	40.00
	4.0b		45.00
	4.0c		40.00
	4.0d		80.00
	4.1a		40.00
	4.1b		45.00
	4.1c		40.00
	4.1d		80.00
5.0		1.65	1.65
6.0		1.10	1.20
7.0		8.50	9.00
7.1		5.50	5.75
8.0		8.75	9.25
8.1		5.50	5.75
9.0a		8.75	9.25
9.0b		6.50	7.00
9.0c		5.50	5.75
10.0		.65	.65
10.1		.35	.35
11.0		12.00	15.00
Minimum		60.00	75.00
12.0		6.50	7.00
13.0a		70.00	74.00
13.0b		108.00	113.00
13.0c		130.00	136.00
13.1a		52.00	54.00
13.1b		74.00	78.00
13.1c		101.00	106.00
13.2		122.00	130.00
14.0a		24.00	25.00
14.0b		29.00	30.00
14.0c		34.00	35.00
15.0a		7.50	8.00
15.0b		13.00	14.00
16.0		15.00	16.00
17.0		5.00	5.25
Minimum		25.00	26.25
18.0		25.00	25.00
19.0		80.00	84.00
20.0		110.00	115.00
21.0		100.00	105.00
22.0		145.00	152.00
23.0		210.00	220.00
24.0		230.00	240.00
25.0		31.00	33.00
25.1		42.00	45.00
26.0a		80.00	84.00
26.0b		23.00	24.00
27.0		12.00	13.00
	27.1		6.00
28.0		5.00	5.50
28.1		7.50	9.00
	28.2		6.00
29.0		18.00	19.00
29.1		31.00	33.00
30.0		14.00	15.00
Minimum		42.00	45.00
31.0 (remove)		3.00	
32.0		3.50	4.00
33.0		1.25	1.50
	Minimum	6.00	
33.1		15.00	16.00
	33.2a		2.00
	b		5.00
	Minimum		6.00

It has been determined that a 15-day comment period is appropriate for interested persons to comment on this proposed regulatory revision because all user fee increases in the revision are required by the Acts governing the services, and the user fee charged to producers for the classification of cotton must be announced not later than June 1, 1991, as provided in the Uniform Cotton Classing Fees Act of 1987. The user fee charged to cotton producers was calculated in accordance with the Uniform Cotton Classing Fees Act of 1987. Other user fee increases in the revision reflect fees needed to recover the costs of providing these services as are required in the Acts governing these services.

List of Subjects in 7 CFR Part 28

Administrative practice and procedures, Cotton, Reporting and Recordkeeping requirements, Warehouses, Cotton samples, Standards, Cotton linters, Grades, Staples, Market news, Testing.

For the reasons set forth in the preamble, 7 CFR part 28 is proposed to be amended as follows:

Part 28—[Amended]

1. The authority citation for subpart A of part 28 would continue to read as follows:

Authority: Sec. 5, 50 Stat. 62, as amended (7 U.S.C. 55); Sec. 10, 42 Stat. 1519 (7 U.S.C. 61).

2. Section 28.116 would be amended by revising paragraph (c) to read as follows:

§ 28.116 Amounts of Fees for classification; exemption.

* * * * *

(c) An additional fee of 35 cents per sample shall be assessed for services described in paragraphs (a) (1), (2), and (3), and (b) of this section unless the request for service is so worded that the samples become Government property immediately after classification.

* * * * *

3. Sections 28.117, 28.120, 28.122, 28.123, 28.149, and 28.151 would be revised to read as follows:

§ 28.117 Fee for new memorandum or certificate.

For each new memorandum or certificate issued in substitution for a prior memorandum or certificate at the request of the holder, thereof, on account of the breaking or splitting of the lot of cotton covered thereby or otherwise for his business convenience, the person requesting such substitution shall pay a fee of 15 cents per bale or a minimum fee of $5.00 per sheet. If the memorandum is provided by means of a computer diskette, the fee for each diskette shall be the higher of $10.00 or 10 cents per bale. The cost of any diskette not returned to the Division will be billed to the requestor.

§ 28.120 Expenses to be borne by party requesting classification.

For any samples submitted for Form A, Form C, or Form D determinations, the expenses of inspecting and sampling, or supervising the sampling, and the preparation of the samples and delivery of such samples to the classification room or other place specifically designated for the purpose by the Director shall be borne by the party requesting classification.

§ 28.122 Fee for practical classing examination.

The fee for the practical classing examination for cotton or linters shall be $100.00. Any applicant who passes the examination may be issued a certificate indicating this accomplishment. Any person who fails to pass the examination may be reexamined. The fee for this practical reexamination is $80.00.

§ 28.123 Costs of practical forms of cotton standards.

The costs of practical forms of the cotton standards of the United States shall be as follows:

Effective date July 1, 1991	Dollars each box or roll			
	Domestic shipments		Shipments delivered outside the continental United States	
	f.o.b. Memphis, TN	Surface delivery	Air freight collect	Air parcel post delivered
Grade standards:				
American Upland	$120.00	$125.00	$120.00	$160.00
American Pima	155.00	160.00	155.00	195.00
Standards for length of staple:				
American Upland (prepared in one pound rolls for each length)	18.00	21.00	18.00	32.00
American Pima (prepared in one pound rolls for each length)	19.00	22.00	19.00	33.00

§ 28.149 Fees and costs; Form C determinations.

For samples submitted for Form C determinations, the party requesting the classification shall pay the fees and costs of supervising the sampling incurred on account of each request.

§ 28.151 Cost of practical forms for linters, period effective.

Practical forms of the official cotton linters standards of the United States will be furnished to any person subject to the applicable terms and conditions specified in § 28.105; *provided,* That no practical form of any of the official cotton linters standards of the United States for grade shall be considered as representing any such standards after the date of its cancellation in accordance with this subpart, or, in any event, after the expiration of 12 months following the date of its certification. The cost of the practical forms of cotton linters standards of the United States shall be as follows:

Effective date: July 1, 1991	Dollars each box or roll			
	Domestic shipments		Shipments delivered outside the continental United States	
	f.o.b. Memphis, TN	Surface delivery	Air freight collect	Air parcel post delivered
Linters Grade Standards (6 sample box for each grade)	$120.00	$125.00	$120.00	$160.00
Linters Staple Standards (prepared in one pound rolls for each length)	20.00	23.00	20.00	34.00

4. The authority citation of subpart D of part 28 would continue to read as follows:

Authority: Sec. 3a, 50 Stat. 62, as amended (7 U.S.C. 473a); sec. 3c, 50 Stat. 62 (7 U.S.C. 473c); unless otherwise noted.

5. Sections 28.910 and 28.911 would be revised to read as follows:

§ 28.910 Classification of samples and issuance of classification data

(a) The samples submitted as provided in this subpart shall be classified by employees of the Division and classification memoranda showing the official quality determination of each sample according to the official cotton standards of the United States will be issued as computer punch cards that are both eye and machine readable. These cards will be returned by the Division to the ginner or to the agent designated by the ginner to receive the classification data. In lieu of punch cards, ginners or the ginners' designated agents may select any one of the following alternative methods of receiving data at no additional charge.

(1) Classification data for all bales from a gin may be transferred by electronic telecommunication equipment. If the issuance of classification data is requested by telecommunications transfer as well as by another method, the fee for telecommunication transfer shall be one cent per bale ginned. All long distance telephone line charges will be paid by the receiver of data.

(2) Classification data for all bales from a gin may be issued on a computer tape or diskette. If the issuance of

classification data is requested on tape or diskette as well as by another method, the fee for each tape or diskette shall be the higher of $10.00 or one cent per bale. The cost of any tape or diskette not returned to the Division will be billed to the requestor.

(3) Classification data for all bales from a gin may be issued as printed cards that are both eye readable and machine scannable. If the issuance of classification data is requested on printed cards as well as by another method, the fee for printed cards shall be one cent per card issued, with a minimum fee of $10.00 per gin per season.

(b) Upon request of an owner of cotton for which classification memoranda have been issued under this subpart, a new memorandum shall be issued for the business convenience of such owner without the reclassification of the cotton. Such rewritten memorandum shall bear the date of its issuance and the date or inclusive dates of the original classification. The fee for a new memorandum shall be 15 cents per bale or a minimum of $5.00 per sheet.

§ 28.911 Review classification

A producer may request one manual or one High Volume Instrument (HVI) review classification for each bale of eligible cotton. The fee for manual review classification is $1.23 per sample. The fee for HVI review classification is $1.73 per sample. Samples for review classification must be drawn by gins of warehouses licensed pursuant to §§ 28.20–28.22, or by employees of the United States Department of Agriculture. Each sample for review classification shall be taken, handled, and submitted according to § 28.908 and to supplemental instructions issued by the Director or an authorized representative of the Director. Costs incident to sampling, tagging, identification, containers, and shipment for samples for review classification shall be assumed by the producer. After classification, the samples shall become the property of the Government unless the producer requests the return of the samples. The proceeds from the sale of samples that become Government property shall be used to defray the costs of providing the services under this subpart. Producers who request return of their samples after classing will pay a fee of 35 cents per sample in addition to the fee established above in this section.

6. The authority citation for subpart E of part 28 would continue to read as follows:

Authority: Sec. 3c, 50 Stat. 62; 7 U.S.C. 473c; Sec. 3d, 55 Stat. 131 (7 U.S.C. 473d).

7. Section 28.956 would be revised to read as follows:

§ 28.956 Prescribed fees

Fees for fiber and processing tests shall be assessed as listed below:

Item No./Kind of test	Fee per test
1.0 Calibration cotton for use with High Volume Instruments, per 5 pound package:	
a. f.o.b. Memphis, Tennessee	$90.00
b. By surface delivery within continental United States	95.00
c. By air freight collect outside continental United States	90.00
d. By air parcel post delivery outside continental United States	130.00
1.1 High Volume Instrument (HVI) System Check Level. Furnishing two samples per month for HVI determinations, summarizing returned data, and reporting deviations from average of all laboratories for measurements taken, per 12 months:	
a. By surface delivery within continental United States	156.00
b. By air parcel post delivery outside continental United States	312.00
2.0 Furnishing international calibration cotton standards with standard values for micronaire reading and fiber strength at zero and 1/8-inch gage and Fibrograph length:	
a. f.o.b. Memphis, Tennessee 1/2-lb. sample	19.00
b. By surface delivery within continental United States, 1/2-lb sample	21.00
c. By air freight collect outside continental United States, 1/2-lb sample	19.00
d. By air parcel post delivery outside continental United States, 1/2-lb sample	29.00
2.1 Furnishing international calibration cotton standards with standard values for micronaire reading only:	
a. f.o.b. Memphis, Tennessee, 1-lb sample	27.00
b. Surface delivery within continental United States, 1-lb sample	30.00
c. By air freight collect outside continental United States, 1-lb sample	27.00
d. By air parcel post delivery outside continental United States, 1-lb sample	41.00
3.0 Furnishing standard color tiles for calibrating cotton colormeters, per set of five tiles including box:	
a. f.o.b. Memphis, Tennessee	115.00
b. Surface delivery within continental United States	120.00
c. By air freight collect outside continental United States	115.00
d. By air parcel post delivery outside continental United States	155.00
3.1 Furnishing single color calibration tiles for use with specific instruments or as replacements in above sets, each tile:	
a. f.o.b. Memphis, Tennessee	21.00
b. Surface delivery within continental United States	24.00
c. By air freight collect outside continental United States	21.00
d. By air parcel post delivery outside continental United States	34.00
4.0 Furnishing a colormeter calibration sample box containing six cotton samples with color values Rd and +b for each sample, per box:	
a. f.o.b. Memphis, Tennessee	40.00
b. Surface delivery within continental United States	45.00
c. By air freight collect outside continental United States	40.00
d. By air parcel post delivery outside continental United States	80.00
4.1 Furnishing a trashmeter calibration sample box containing six cotton samples with trashmeter percent area readings for each sample, per box:	
a. f.o.b. Memphis, Tennessee	40.00
b. Surface delivery within continental United States	45.00
c. By air freight collect outside continental United States	40.00
d. By air parcel post delivery outside continental United States	80.00
5.0 High Volume Instrument (HVI) measurement. Reporting micronaire, length, length uniformity, 1/8-inch gage strength, color and trash content. Based on a 6 oz. (170 g) sample, per sample	1.65
6.0 Color of ginned cotton lint. Reporting data on the reflectance and yellowness in terms of Rd and +b values as based on the Nickerson-Hunter Cotton Colorimeter on samples which measure 5 x 6-1/2 inches and weigh approximately 50 grams, per sample	1.20
7.0 Fiber length of ginned cotton lint by Fibrograph method. Reporting the average length and average length uniformity as based on 4 specimens from a blended sample, per sample	9.00
7.1 Fiber length of ginned cotton lint by Fibrograph method. Reporting the average length and average length uniformity as based on 2 specimens from each unblended sample	5.75
8.0 Pressley strength of ginned cotton lint by flat bundle method for either zero or 1/8-inch gage as specified by applicant. Reporting the average strength as based on 6 specimens from a blended sample, per sample	9.25
8.1 Pressley strength of ginned cotton lint by flat bundle method for either zero or 1/8-inch gage as specified by applicant. Reporting the strength as based on 2 specimens for each unblended sample, per sample	5.75
9.0 Stelometer strength and elongation of ginned cotton lint by the flat bundle method for 1/8-inch gage. Reporting the average strength and elongation:	
a. Based on 6 specimens from each blended sample, per sample	9.25
b. Based on 4 specimens from each blended sample, per sample	7.00
c. Based on 2 specimens from each blended sample, per sample	5.75
10.0 Micronaire readings on ginned lint. Reporting the microaire based on 2 specimens per sample	0.65
10.1 Micronaire reading based on 1 specimen per sample	0.35
11.0 Fiber maturity and fineness of ginned cotton lint by the Causticaire method. Reporting the average maturity, fineness, and microaire reading as based on 2 specimens from a blended sample, per sample	15.00
Minimum fee	75.00

12.0 Fiber fineness and maturity of ginned cotton lint by the IC-Shirley Fineness/Maturity Tester method, reporting the average micronaire, maturity ratio, percent mature fibers and fineness (linear density) based on 2 specimens from a blended sample, per sample 7.00

13.0 Fiber length array of cotton samples. Reporting the average percentage of fibers by weight in each 1/8-inch group, average length and average length variability as based on 3 specimens from a blended sample:

a. Ginned cotton lint, per sample 74.00
b. Cotton comber noils, per sample 113.00
c. Other cotton wastes, per sample 136.00

13.1 Fiber length array of cotton samples. Reporting the average percentage of fibers by weight in each 1/8-inch group, average length, and average length variability as based on 2 specimens from a blended sample:

a. Ginned cotton lint, per sample 54.00
b. Cotton comber noils, per sample 78.00
c. Other cotton wastes, per sample 106.00

13.2 Fiber length array of cotton samples, including purified or absorbent cotton. Reporting the average percentage of fibers by weight in each 1/8-inch group, average length and average length variability as based on 3 specimens from a blended sample, per sample. 130.00

14.0 Fiber Length and Length Distribution of cotton samples by the Almeter method. Reporting the upper 25 percent length, mean length, coefficient of variation, and short fiber percentages by weight, number or tuft in each 1/8-inch group, as based on 2 specimens from a blended sample:

a. Report percentages of fiber by weight only 25.00
b. Report percentages of fiber by weight and number or tuft 30.00
c. Report percentages of fiber by weight, number and tuft 35.00

15.0 Foreign matter content of cotton samples. Reporting data on the non-lint content as based on the Shirley Analyzer separation of lint and foreign matter:

a. For samples of ginned lint or comber noils, per 100-gram specimen 8.00
b. For samples of ginning and processing wastes other than comber noils, per 100-gram specimen 14.00

16.0 Neps content of ginned cotton lint. Reporting the neps per 100 square inches as based on the web prepared from a 3-gram specimen by using accessory equipment with the mechanical fiber blender, per sample 16.00

17.0 Sugar content of cotton. Reporting the percent sugar content as based on a quantitative analysis of reducing substances (sugars) on cotton fibers, per sample 5.25
Minimum fee 26.25

18.0 Miniature carded cotton spinning test. Reporting data on tenacity (centinewtons per tex) of 22's yarn and HVI data (see item 5.0). Based on the processing of 50 grams of cotton in accordance with special procedures per sample 25.00

19.0 Two-pound cotton carded yarn spinning test available to cotton breeders only. Reporting data on yarn skein strength, yarn appearance, yarn neps and the classification and the fiber length of the cotton as well as comments on any unusual processing performance as based on the processing of 2 pounds of cotton in accordance with standard procedures into two standard carded yarn numbers employing a standard twist multiplier, per sample 84.00

20.0 Cotton carded yarn spinning test. Reporting data on waste extracted, yarn skein strength, yarn appearance, yarn neps and classification, and fiber length as well as comments summarizing any unusual observations as based on the processing of 6 pounds of cotton in accordance with standard laboratory procedures at one of the standard rates of carding of 6-1/2, 9-1/2, or 12-1/2 pounds-per-hour into two of the standard carded yarn number of 8s, 14s, 22s, 36s, 44s, or 50s, employing a standard twist multiplier unless otherwise specified, per sample 115.00

21.0 Spinning potentials test. Determining the finest yarn which can be spun with no ends down and reporting spinning potential yarn number. This test requires an additional 4 pounds of cotton, per sample 105.00

22.0 Cotton combed yarn spinning test. Reporting data on waste extracted, yarn skein strength, yarn appearance, yarn neps, and classification and fiber length as well as comments summarizing any unusual observations as based on the processing of 8 pounds of cotton in accordance with standard procedures at one of the standard rates of carding of 4-1/2, 6-1/2, or 9-1/2 pounds per hour into two of the standard combed yarn numbers of 22s, 36s, 44s, 50s, 60s, 80s, or 100s employing a standard twist multiplier unless otherwise specified, per sample 152.00

23.0 Cotton carded and combed yarn spinning test. Reporting the results as based on the processing of 10 pounds of cotton into two of the standard carded and two of the standard combed yarn numbers employing the same carding rate and the same yarn numbers for both the carded and the combed yarns, per sample 220.0

24.0 Cotton carded and combed yarn spinning test. Reporting the results as based on the processing of 9 pounds of cotton into two of the standard combed yarn numbers employing different carding rates and/or yarn numbers for the carded and combed yarns, per sample 240.00

25.0 Processing and testing of additional yarn. Any carded or combed yarn number processed in connection with spinning tests including either additional yarn numbers or additional twist multipliers employed on the same yarn numbers, per additional lot of yarn 33.00

25.1 Processing and furnishing of additional yarn: Any yarn number processed in connection with spinning tests. Approximately 300 yards on each of 16 paper tubes for testing by the applicant, per additional lot of yarn 45.00

26.0 Twist in yarns by direct-counting method. Reporting direction of twist and average turns per inch of yarn:

(a) Single yarns based on 40 specimens per lot of yarn 84.00
(b) Plied or cabled yarns based on 10 specimens, per lot of yarn 24.00

27.0 Skein strength of yarn. Reporting data on the strength and the yarn numbers based on 25 skeins from yarn furnished by the applicant per sample 13.00

27.1 Single Strand Yarn Strength Test. Measuring 100 strands on a Statimat Tester and reporting yarn strength, elongation and coefficient of variation, per test 6.00

28.0 Appearance grade of yarn furnished on bobbins by applicant. Reporting the appearance grade in accordance with ASTM standards as based on yarn wound from one bobbin, per bobbin 5.50

28.1 Furnishing yarn wound on boards in connection with yarn appearance tests 9.00

28.2 Yarn Imperfections Test. Measuring yarn on the Uster Evenness Tester and reporting the yarn imperfections, thick places, thin places, and neps, and the percent coefficient of variation, per sample 6.00

29.0 Strength of cotton fabric. Reporting the average warp and filling strength by the grab method as based on 5 breaks for both warp and filling of fabric furnished by the applicant, per sample 19.00

29.1 Cotton fabric analysis. Reporting data on the number of warp and filling threads per inch and weight per yard of fabric as based on at least three (3) 6 x 6-inch specimens of fabric which were processed or furnished by the applicant, per sample 33.00

30.0 Chemical finishing tests on finished drawing sliver. The Ahiba Texomat Dyer is used for scouring, bleaching and dyeing of a 3-gram sample. Color measurements are made on the unfinished, bleached and dyed cotton samples, using a Hunterlab Colorimeter, Model 25 M-3. The color values are reported in terms of reflectance (Rd), yellowness (+b) and blueness (−b) 15.00
Minimum fee 45.00

32.0 Furnishing identified cotton samples. Includes samples of ginned lint stock at any stage of processing or testing, waste of any type, yarn or fabric selected and identified in connection with fiber and/or spinning tests, per identified sample 4.00

33.0 Furnishing additional copies of test reports. Including extra copies in addition to the two copies routinely furnished in connection with each test item, per additional sheet 1.50
Minimum fee 6.00

33.1 Furnishing a certified relisting of test results. Includes samples or sub-samples selected from any previous tests, per sheet 16.00

33.2 Sending copies of test reports by facsimile (FAX), per sheet:

a. Within continental United States 2.00
b. Outside continental United States 5.00
Minimum fee (additional copies) 6.00

34.0 Classification of ginned cotton lint is available in connection with other fiber tests, under the provisions of 7 CFR 28, § 28.56, at the fees prescribed by 7 CFR 28, § 28.116. Classification includes grade, staple, and micronaire reading based on a 6 oz. (170g) sample.

Dated: April 24, 1991.

Daniel Haley,

Administrator.

[FR Doc. 91-10082 Filed 4-29-91; 8:45 am]

BILLING CODE 3410-02-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Chicken Egg Industry

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The Small Business Administration (SBA) is proposing to increase the size standard for the Chicken Egg Industry, Standard Industrial Classification (SIC) code 0252, from $1 million to $7 million in average annual receipts. This action is being proposed in an attempt to better define a small business in this industry.

DATES: Comments must be submitted on or before May 30, 1991.

ADDRESSES: Send Comments to: Gary M. Jackson, Director, Size Standards Staff, U.S. Small Business Administration, 409 3rd Street, SW.—5th flr., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Harvey D. Bronstein, Economist, Size Standards Staff, Tel: (202) 205-6618.

SUPPLEMENTARY INFORMATION: The Chicken Egg Industry's small business size standard of $1 million in average annual receipts has been in effect since 1980. Two small dealers have indicated to SBA that few small chicken egg producers are participating in the Federal procurement of chicken eggs by either contracting directly with the Federal Government or through small dealers. In view of the limited participation of small egg producers in government procurement, SBA has reexamined the appropriateness of the present size standard.

When examining a size standard, SBA considers a number of specific factors characterizing industry structure such as: industry competition, average firm size, start-up costs, distribution of firms by size and program impact, in this case the small business share of Federal procurement of eggs.

As an indicator of industry competition, SBA looks at concentration or the share of industry sales controlled by the largest producers. As an industry is more concentrated, especially when compared to other similar industries, the influence of this factor is to move the size standard upward. If an industry is less concentrated, this would be a downward influence on the standard.

Average firm size is also a consideration in the evaluation of a size standard and is related to start-up costs. Industries differ by average firm size. The average is also an indicator of how difficult it is to start a business in an industry. If average firm size is high compared to other similar industries then the tendency is to support a higher size standard. A lower size standard would generally be the case for an industry with a relatively low average firm size.

Firm size distribution indicates the proportion of industry sales, employment and other economic activity accounted for by firms of different sizes. For example, if the preponderance of an industry's output is by the smaller firms, that is, those at the low end of the distribution, this would tend to support a lower size standard. The opposite would be the case for an industry in which firm size distribution shows that output is controlled by large firms.

Program impact is an important factor because this is the most immediate application of a size standard. While factors other than size standards effect program results, a change in a size standard can be expected to have an appreciable outcome on the procurement set-aside and other SBA programs. In the case of chicken eggs, the size standard is expected to influence the set-aside program and improve the low participation of small business in selling eggs to the Government.

The chicken egg industry has become more concentrated due to stagnant production and the declining number of firms. Egg production was the same in 1987 as it was in 1967, according to U.S. Department of Agriculture (USDA) statistics. From 1980 to 1986, the number of producers reported in the United States Establishment and Enterprise Microdata file (USEEM, SBA's Small Business Data Base) declined by one-quarter, from 1202 to 920. Also the share of industry sales by producers owning more than one million hens has gone from 36% in 1980 to 56% in 1987, according to the USDA. This same source also observed, "Production has become more concentrated over time (and) is comprised of larger firms."

As part of this industry consolidation, average firm size has been increasing as producers seek to take advantage of economies of scale. A trade source, the magazine Egg Industry, reported in its 1989 survey of the largest producers "the firms at the top of the list continue to get bigger," and that the largest firm in 1989 more than doubled in size through the acquisition of another large producer. Similarly, average firm size in the industry according to USEEM was $2.5 million in annual receipts in 1986 (equivalent to approximately 18 employees), up from $1.4 million in 1990.

The distribution of firms by size class can be seen from Table 1. This table also shows firm size in terms of the number of layers or hens, as this is a common measure of producer size in the industry.

TABLE 1.—ESTIMATED INDUSTRY SIZE DISTRIBUTION BY EQUIVALENT FIRM SIZES, Chicken Eggs, SIC Code 0252

Employee Size Class	7	20	50	100	1,367
Sales Size Class	$1M	$3M	$7M	$14M	$186M
Layer Size Class (000's)	78	221	552	1106	15,000
Number of Firms (cumul.)	497	764	851	893	920
Percent of Firms (cumul.)	54%	83%	93%	97%	100%
Percent of Sales (cumul.)	8%	22%	37%	50%	100%

Sales based on 1986 egg prices from USDA.
Sources: USEEM, 1986 and Egg Industry, Nov. 1989.

In spite of these trends, the egg industry is still quite competitive, in part because eggs can be economically transported from producer to market, sometimes for distances of over one thousand miles. Relatively small differences in prices will cause eggs to be shipped from one region to another, state USDA sources in the USDA's Economic Research Service. This would act to curtail any geographic market power of the largest producers.

While part of agriculture, the egg industry's method of production differs significantly from farming. The industry is highly mechanized with factory-type operations and has average firm size of $2.5 million in annual receipts. By

contrast, the average size farm only has $700,000 in receipts according to the SBA's Small Business Data Base. In addition, as discussed above, the egg industry is much more concentrated than general farming, with levels of concentration more typical of manufacturing that agriculture. The top five firms in the egg industry control 19 percent of sales according to both USEEM and Egg Industry. In contrast, for general farming concentration is practically zero. Thus the current $500,000 farming size standard—established by law in 1986—is of limited relevance compared to the size standard for the egg industry.

When re-examining a size standard, a consideration of other sectors' average firm sizes and their relationship to their size standards is helpful. (These are listed below in table 2.) This comparison is important because if shows how a size standard relates to other industries' size standards. SBA has no specific ratio of size standard to average firm size as a goal in considering a size standard for an industry. It is a rule of thumb for making interindustry comparisons and is evaluated with other industry characteristics.

Usually a size standard is several times greater than the average firm size for a given industry. Such is not the case for the chicken egg industry, however, in which its current size standard is actually below the average firm size.

TABLE 2

Industry	Size standard	Average firm size
Farming	$0.5M	$0.7M
Services	3.5M	1.2M
Retail	3.5M	1.3M
Special Trade	7.0M	0.6M
Construction		
Manufacturing	500E	76E
Eggs	$1.0M	$2.5M

Source: USEEM, 1986, based on credit reports from Dun and Bradstreet. Census Data which incorporates many more records, estimated average farm size at $110,000 in 1982. USEEM data is used in this report because Census data is not separately compiled for the egg industry.

SBA has used the concept of an anchor size standard for comparing size standards across industries. In 1985, SGA's Size Policy Board adopted two anchor size standards to service as reference points from which to begin considerations of a specific standard. For nonmanufacturing industries a receipt-based size standard of $3.5 million is the anchor and for manufacturing, an employee-based size standard of 500 employees was adopted. The receipt-based size standard originated in 1954, a short time after the inception of the Agency. At that time, the most common or anchor size standard for receipt-based size standards was established at $1.0 million. Inflationary adjustments to this figure eventually led to the $3.5 million size standard in 1984 which is still in effect today.

SBA's size standards define as small, or cover, about 98 percent of all firms in the economy. These firms account for approximately 38 percent of sales or value of the economy's output on a gross national product basis. While not a goal in itself, these coverage rates can be used as a guide in selecting a proposed size standard and in considering the impact of the size standard on SBA programs. Chart A below compares coverage for current size standards for the egg industry, farms, and small businesses taken as a whole. It shows that the current size standard for eggs covers relatively few firms, 54 percent, and hardly and industry sales, 8 perce[illegible]

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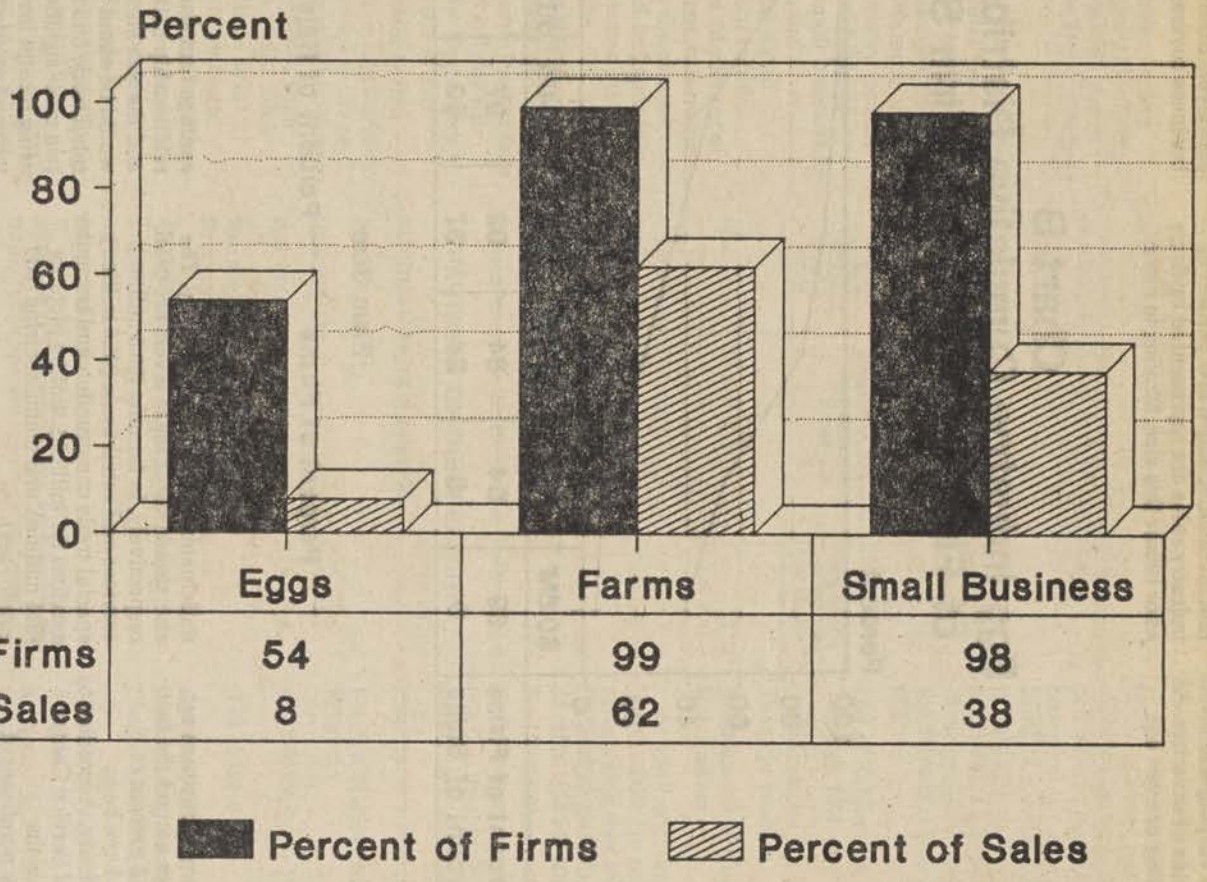
Chart A
Industry Coverage Under Current Size Standards

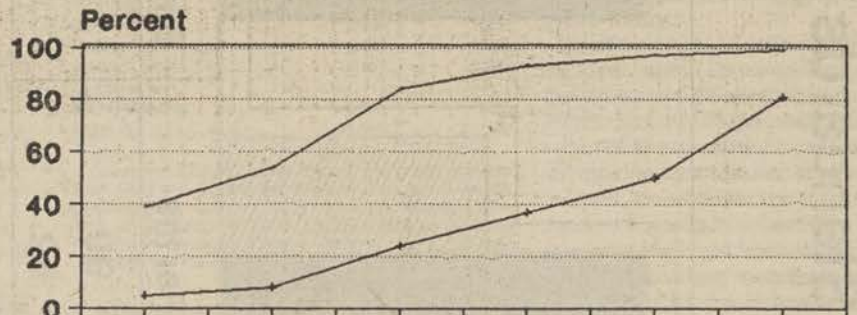


	Eggs	Farms	Small Business
Percent of Firms	54	99	98
Percent of Sales	8	62	38

BILLING CODE 8025-01-C

Chart B shows how varying size levels can achieve higher rates of coverage. At levels of one-half million or even one million dollars, only a few percent of industry sales are represented by firms at or below this size. Moving to higher size levels results in increased small business coverage for the industry.

Chart B
Egg Industry; Cumulative Distribution of Firms and Sales, by Firm Size



	$0.5M	$1M	$3.5M	$7M	$14M	500 emp.
Percent of Firms	39	54	84	93	97	99
Percent of Sales	5	8	24	37	50	81

Firm Size

Percent of Firms — Percent of Sales

The impact on the small business set-aside program revolves around the fact that only 1 percent to 2 percent of Federal egg contracts have been awarded to small business. According to the Defense Personnel Service Center (DPSC) in Philadelphia, the Government's primary purchaser of eggs, there were no awards to small business in 1989 and only one award in 1988 for $55,000. In 1989 DPSC awarded several hundred contracts aggregately worth about $37 million for eggs.

The current $1 million size standard has produced low results for the small business share of Federal procurement of eggs. While the overall small business share of Federal procurement is about 20 percent for all goods and services, for egg procurement it has been practically zero. SBA believes a better definition of small egg producers could improve program results.

SBA looked at several alternative size standards for this industry. To keep the number of alternatives to manageable levels, SBA considered size standards at already existing levels. These are listed below in table 3 along with their anticipated effect on the industry. The size standards at these levels are used, respectively, in farming ($0.5 million), services and retail trade ($3.5 million), special trade construction and computer services ($7 million), motion pictures ($14 million), and manufacturing (500 employees).

Of these alternatives, SBA is proposing a $7 million size standard. This size standard would make the chicken egg industry standard more comparable to other industries in terms of average firm size and coverage rates, and improve program results. The $7 million size standard would define as small 93 percent of industry firms (851 out of 920), which account for .37 percent of industry sales. Under the current size standard, only about one half of the firms are considered small, and they account for only 8 percent of total industry sales.

Also, as shown in table 2, size standards are generally several times greater than the average firm size for an industry. For the egg industry, this means the proposed size standard would be about three times greater than average firm size. At this level, the relationship between average firm size and the size standard for chicken eggs would be about the same as for the retail trade and service industries—the two most significant industry divisions using receipt levels as size standards. In terms of program impact, egg buyers at DPSC estimate that a higher size standard could substantially increase purchases from producers defined as small. At the proposed size standard, small egg producers could be expected to obtain at least 20 percent of Government egg procurement.

SBA specifically invites comment on the appropriateness of this standard and on alternative standards (either higher or lower). Comments suggesting other standards should address the questions of: (1) The interaction of this size standard with SBA's programs; (2) the relative levels of participation at different size standards; (3) the effect of this proposed size standard or other alternative size standard on the businesses within this industry; and (4) the prospect of significant new entries

into these businesses in response to this program.

Compliance With Executive Orders 12291 and 12612, Regulatory Flexibility Act and Paperwork Reduction Act (5 U.S.C. 601, et seq. and 44 U.S.C. Chapter 35)

The SBA certifies that this proposed rule, if promulgated as final, would not constitute a major rule for purposes of E.O 12291. This rule does not qualify as a major rule because SBA made only 20 loans to firms in this industry for $4.1 million in 1989, and the number of contracts set aside for small business in this industry is small. In the procurement program, the small business set-aside amount could increase to an estimated 20 percent of $37 million in procurement, to perhaps $7 million per year from the present $55,000. In addition, SBA believes this rule is not likely to result in a major increase in costs or prices.

The SBA certifies that this proposed rule, if promulgated as final, would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

This proposed rule would define which firms in the Chicken Egg Industry are eligible for SBA assistance as small businesses. Even though small business eligibility would be expanded, from approximately 500 firms to 851, SBA anticipates that few of these firms would be affected. This is because based on current levels of participation by egg producers in SBA programs, the newly eligible firms are expected to generate no more than 10 additional loans and 40 to 50 additional small business contracts per year. The expected impact would be $1.5 million in new loans and $5 million to $7 million worth of contracts per year. For most egg producers the changed size standard would not affect their day-to-day business operations.

SBA certifies that this proposed rule, if promulgated as final, would not contain recordkeeping or reporting requirements subject to the Paperwork Reduction Act, 44 U.S.C., chapter 35. Also, this rule does not require a Federalism Assessment in accordance with Executive Order 12612.

List of Subjects in 13 CFR Part 121

Government procurement, Government property, Grant programs—business, Loan programs—businessSmall business.

Accordingly, part 121 of 13 CFR is proposed to be amended as follows:

PART 121—[AMENDED]

1. The authority citation for Part 121 continues to read as follows:

Authority: Secs 3(a) and 5(b)(6) of the Small Business Act 15 U.S.C. 632(a) and 634(b) and Pub. Law 100–656, 102 Stat. 3853 (1988).

§ 121.601 [Amended]

2. In § 121.601 for Major Group 02, SIC code 0252, is revised to read as follows:

SIC (* = new SIC code in 1987; not used in 1972)	Description (N.E.C.—not elsewhere classified)	Size standards in No. of employees or millions of dollars
*	* * *	*
0252	Chicken Eggs	$7.0

Dated: April 11, 1991.

Patricia F. Saiki,

Administrator, Small Business Administration.

[FR Doc. 91–9630 Filed 4–29–91; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[PS–107–88]

RIN 1545–AM60

Normalization: Inconsistent Procedures and Adjustments

AGENCY: Internal Revenue Service, Treasury.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This document withdraws the notice of proposed rulemaking relating to Internal Revenue Code sections 167(l) and 168(i)(9) that was published in the Federal Register on Tuesday, November 27, 1990. The proposed regulations address the extent to which the normalization requirements of the Internal Revenue Code are violated by certain utility ratemaking procedures and adjustments that are based on tax savings attributable to the filing of a consolidated tax return.

FOR FURTHER INFORMATION CONTACT: Martin Schaffer (202) 566–3553 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On Tuesday, November 27, 1990, the Internal Revenue Service issued proposed regulations titled Normalization: Inconsistent Procedures and Adjustments (55 FR 49294). The proposed regulations address the extent to which the normalization requirements of the Internal Revenue Code are violated by certain utility ratemaking procedures and adjustments that are based on tax savings attributable to the filing of a consolidated tax return. Upon consideration of the comments received, the Service has decided to withdraw those proposed regulations and to close the related regulations project (PS–107–88).

List of Subjects in 26 CFR 1.61–1 Through 1.281–4

Deductions, Exemptions, Income tax, Taxable income.

Withdrawal of Notice of Proposed Rulemaking

Accordingly, under the authority of 26 U.S.C. 7805, the notice of proposed rulemaking that was published in the Federal Register on Tuesday, November 27, 1990, (55 FR 49294) is withdrawn.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 91–10141 Filed 4–25–91; 2:00 pm]

BILLING CODE 4830–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapter I

[FRL–3952–9]

Open Meeting of the Negotiated Rulemaking Advisory Committee; Clean Fuels Rules and Guidelines

AGENCY: Environmental Protection Agency.

ACTION: FACA committee meetings—Negotiated Rulemaking and Committee on Clean Fuels and Guidelines.

SUMMARY: EPA is announcing a meeting of the full Advisory Committee to negotiate a rule for reformulated gasoline and labeling of oxygenated gasoline as well as for developing guidelines for oxygenated fuel credit trading programs for inclusion in State implementation plans. The purpose of the meeting is to see if the Committee can reach consensus on the substantive issues.

DATES: The Committee will meet from 9 am–6pm on May 13, and for 8 am–4 pm [or completion] on May 14.

ADDRESSES: The meeting will be held at the Quality Hotel Capitol Hill, 425 New Jersey Avenue NW., Washington, DC 20001, (202) 638–1616.

FOR FURTHER INFORMATION CONTACT: Persons needing further information on substantive aspects of the rule should call Carol Menninga of EPA's Motor Vehicle Emission Laboratory, Office of Mobile Sources, (313) 668–4575, with respect to issues concerning reformulated fuels, and Alfonse Mannato of EPA's Field Operations and Support Division, Office of Mobile Sources, (202) 382–2667, with respect to issues concerning oxygenated fuels. Persons needing further information on administrative matters such as committee arrangements or procedures should contact Chris Kirtz of EPA's Regulatory Negotiation Project at (202) 382–7565, or one of the Committee's independent facilitators, Philip J. Harter at (202) 887–1033 or Alana S. Knaster at (818) 702–9526.

Dated: April 26, 1991.

Paul Lapsley,

Director, Regulatory Management Division, Office of Policy, Planning, and Evaluation.

[FR Doc. 91–10291 Filed 4–29–91; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[GC Docket No. 91–120; FCC 91–123]

Administrative Practice and Procedure

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The notice of proposed rulemaking amends §§ 1.23 and 1.24 to provide for the temporary suspension of attorneys practicing before the Commission who are the subject of a final order or suspension or disbarment by a court or other lawful tribunal.

DATES: Comments are due on or before June 14, 1991, and reply comments are due on or before July 1, 1991.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: James Mullins, Office of General Counsel, (202) 254–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's notice of proposed rulemaking, General Docket 91–120 adopted April 12, 1991, and released [April 24], 1991. 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, Downtown Copy Center, (202) 452–1422, 1114 21st Street, NW., Washington, DC 20036.

Summary of Notice of Proposed Rulemaking

1. On April 12, 1991, the Commission adopted a notice of proposed rulemaking in General Docket No. 91–120 proposing to amend 47 CFR 1.24 to provide for the temporary suspension of any lawyer, at the discretion of the Commission and without opportunity for preliminary hearing, upon receipt by the Commission of official notification of that person's final suspension or disbarment by a duly authorized tribunal. The temporary suspension would remain in effect until completion of the Commission's disciplinary proceeding conducted pursuant to § 1.24(b) or until the Commission determines that reinstatement of the practitioner, prior to the completion of those proceedings, would serve the public interest.

2. In addition, the Commission proposed to amend 47 CFR 1.23 to add that an attorney who is subject to suspension, disbarment or otherwise restricted from the practice of law by a final order of a lawfully authorized Federal or State agency is prohibited from practice before the Commission.

3. Members of the public should note that for purposes of this non-restricted notice and comment rulemaking proceeding *ex parte* presentations are permitted except during the Sunshine Agenda period.

4. Accordingly, it is ordered, pursuant to sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r) that a notice of proposed rulemaking is issued, proposing the amendment of 47 CFR part 1 as set forth below.

5. It is further ordered, Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, that all interested parties may file comments on the matters discussed in this NPRM and on the proposed rules contained below by June 14, 1991, and reply comments by July 1, 1991. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and four copies of all comments and reply comments. If participants wish each Commissioner to have a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554.

6. It is further ordered, That the Secretary shall cause a copy of this NPRM to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 605 of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605 (1980).

List of Subjects in 47 CFR Part 1

Administrative Practice and Procedure

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Rule Changes

Title 47 of the Code of Federal Regulations, part 1 of title 47 is proposed to be amended as follows:

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

Authority: Sections 4, 303, 48 Stat. 1066, 1082, as amended, 47 U.S.C. 154, 303.

2. In § 1.23, paragraph (a) is revised to read as follows:

§ 1.23 Persons who may be admitted to practice.

(a) Any person who is a member in good standing of the bar of the Supreme Court of the United States, or of the highest court of any state, territory, or of the District of Columbia, and is not under any final order, entered by any court or any state or federal agency or tribunal lawfully authorized to restrict an attorney in the practice of law, suspending, enjoining, restraining, disbarring, or otherwise restricting him or her in the practice of law, may represent others before the Commission.

* * * * *

3. In § 1.24, paragraph (b) is revised and paragraph (c) is added to read as follows:

§ 1.24 Censure, suspension, or disbarment of attorneys.

* * * * *

(b) Except as provided in paragraph (c) of this section, before any member of the bar of the Commission shall be censured, suspended, or disbarred, charges shall be preferred by the Commission against such practitioner and he shall be afforded an opportunity to be heard thereon.

(c) Upon receipt of official notice from any federal court or any court of any state, territory, or the District of Columbia, or any state or federal agency or tribunal lawfully authorized to suspend an attorney from the practice of law, which demonstrates that an attorney practicing before the

Commission is the subject of an order of final suspension (not merely temporary suspension pending further action) or disbarment by such entity, the Commission may, without preliminary hearing, enter an order temporarily suspending the attorney from practice before it pending final disposition of a disciplinary proceeding brought pursuant to paragraph (a)(1) of this section, which shall afford the attorney an opportunity to be heard.

[FR Doc. 91-10165 Filed 4-29-91; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 91-124, RM-7586]

Radio Broadcasting Services; Bentonville, AR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Demaree Media, Inc., licensee of Station KOLZ(FM), Channel 252A, Bentonville, Arkansas, seeking the substitution of Channel 252C3 for Channel 252A and modification of its license accordingly. Coordinates for this proposal are 36-31-08 and 94-10-38. Petitioner's modification proposal complies with the provisions of § 1.420(g) of the Commission's rules. Therefore, we will not accept competing expressions of interest in the use of Channel 252C3 at Bentonville or require the petitioner to demonstrate the availability of an additional equivalent class channel.

DATES: Comments must be filed on or before June 17, 1991, and reply comments on or before July 2, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: M. Anne Swanson, Esq., Koteen & Naftalin, 1150 Connecticut Ave., NW., Washington, DC 20036.

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. 91-124, adopted April 15, 1991, and released April 25, 1991.

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, Downtown Copy Center, (202) 452-1422, 1714 21st St., NW., Washington, DC 20036.

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.

Andrew J. Rhodes,

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

[FR Doc. 91-10166 Filed 4-29-91; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 91-118, RM-7689]

Radio Broadcasting Services; Cedar Key, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Karen Voyles proposing the substitution of Channel 274C3 for Channel 274A at Cedar Key, Florida, and modification of her construction permit (BPH-881115MD) to specify the higher class channel. Channel 274C3 can be allotted to Cedar Key in compliance with the Commission's minimum distance separation requirements at the site specified in the construction permit, with a site restriction of 8.0 kilometers (5.0 miles) north of the community. The coordinates are North Latitude 29-12-24 and West Longitude 83-00-51. In accordance with § 1.420(g) of the Commission's Rules, we shall not accept competing expressions of interest or require the petitioner to demonstrate the availability of an additional equivalent channel for use by interested parties.

DATES: Comments must be filed on or before June 14, 1991, and reply comments on or before July 1, 1991.

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: Karen Voyles, c/o Riley & Bergquist, P.A., 5200 Willson Road, suite #308, Edina, Minnesota 55424 (petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking, MM Docket No. 91-118, adopted April 11, 1991, and released April 23, 1991. 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, Downtown Copy Center, (202) 452-1422, 1714 21st Street NW., Washington, DC 20036.

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.

Andrew J. Rhodes,

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

[FR Doc. 91-10116 Filed 4-29-91; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 91-117, RM-7670]

Radio Broadcasting Services; Edgewater, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by deHaro Radio, Ltd., proposing the substitution of Channel 226C3 for Channel 226A at Edgewater, Florida, and modification of its construction permit to specify the higher class channel. Channel 226C3 can be allotted to Edgewater in compliance with the Commission's minimum distance separation requirements at the site specified in the construction permit, with a site restriction of 8.4 kilometers (5.2 miles) south of the community. The coordinates for this proposed allotment are North Latitude 28–54–52 and West Longitude 80–53–48. In accordance with § 1.420(g) of the Commission's Rules, we shall not accept competing expressions of interest or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before June 14, 1991, and reply comments on or before July 1, 1991.

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: Cary S. Tepper, Putbrese, Hunsaker & Ruddy, 6800 Fleetwood Road, suite 100, P.O. Box 539, McLean, Virginia 22101 (attorney for petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 91–117, adopted April 11, 1991, and released April 23, 1991. 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, Downtown Copy Center, (202) 452–1422, 1714 21st Street NW., Washington, DC 20036.

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.

Andrew J. Rhodes,

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

[FR Doc. 91–10117 Filed 4–29–91; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–648; RM–7560]

Radio Broadcasting Services; Weiser, ID

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of.

SUMMARY: This document dismisses the petition of Treasure Valley Broadcasting requesting the substitution of Channel 300C2 for Channel 257A at Weiser, Idaho, because no comments expressing continuing interest in Channel 298C2, the channel proposed by the Commission, were filed by the petitioner or any other party. With this action, this proceeding is terminated.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90–648, adopted April 11, 1991, and released April 23, 1991. 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, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Andrew J. Rhodes,

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

[FR Doc. 91–10118 Filed 4–29–91; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 91–123, RM–7693]

Radio Broadcasting Services; Newton, IL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by S. Kent Lankford, proposing the substitution of Channel 278B1 for Channel 278A at Newton, Illinois, and modification of his construction permit (BPH–880727MI) to specify the higher class channel. Channel 278B1 can be allotted to Newton in compliance with the Commission's minimum distance separation requirements at the site specified in the construction permit with a site restriction of 9.9 kilometers (6 miles) northwest of the community. The site restriction is necessary in order to avoid short-spacing to a construction permit for Station WUEZ(FM), Channel 279A, Christopher, Illinois, Station WFIU(FM), Channel 278B, Bloomington, Illinois, and Station WDBR(FM), Channel 279B, Springfield, Illinois. The coordinates are North Latitude 39–04–31 and West Longitude 88–11–19. In accordance with Section 1.420(g) of the Commission's Rules, we shall not accept competing expressions of interest or require the petitioner to demonstrate the availability of an additional equivalent channel for use by interested parties.

DATES: Comments must be filed on or before June 17, 1991, and reply comments on or before July 2, 1991.

ADDRESSES: Federal Communications Commission, Washington, D.C. 29554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Richard J. Hayes, Jr., 13809 Black Meadow Road, Spotsylvania, Virginia 22553 (Attorney for petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's notice of proposed rule making, MM Docket No. 91–123, adopted April 15, 1991, and released April 25, 1991. 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, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

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.

Andrew J. Rhodes,

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

[FR Doc. 91–10167 Filed 4–29–91; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 90–628; RM–7576]

Radio Broadcasting Services; Gilman, IL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of.

SUMMARY: This document dismisses the petition of Jerry Rosalius requesting the allotment of Channel 277A to Gilman, Illinois, since no comments expressing continuing interest in Channel 277A at Gilman were filed by the petitioner or any other party. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 643–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90–628, adopted April 11, 1991, and released April 23, 1991. 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, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Andrew J. Rhodes,

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

[FR Doc. 91–10119 Filed 4–29–91; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 56, No. 83
Tuesday, April 30, 1991

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.

ACTION

Drug Alliance; Availability of Funds

ACTION: Notice of availability of funds.

ACTION, the federal domestic volunteer agency, announces the availability of funds during fiscal year 1991 for Drug Alliance grants under the Special Volunteer Programs authorized by the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93–113, Title I, part C). These grants are to address the particular need for illicit drug prevention programs that focus on at-risk youth in public housing neighborhoods.

ACTION, historically a principal source of volunteer leadership in America, has been mandated by the President and Congress to confront the crisis of illegal drug use by youth by supporting innovative prevention programs that use volunteer resources at the local level to respond to this crisis. Volunteers of all ages and from every segment of the community can make vital contributions to illegal drug use prevention and education programs. Therefore, ACTION intends to support programs which encourage and sustain the spirit of voluntarism as a weapon in America's fight against illegal drugs.

The best strategy to combat illegal drug use by youth is to prevent it from starting. Effective prevention requires the involvement of every segment of the community in delivering and reinforcing clear and consistent "no use" messages. Because no single approach will work in every locale, ACTION has supported and promoted a wide range of models using volunteers of all ages to stop the use of illegal drugs by youth. The search continues for new approaches or models, as well as for strategies to adapt existing models to individual communities. There is continuing need for effective approaches that use volunteers to provide specific drug use prevention information and refusal skills as well as to provide a wide range of positive activities for at-risk youth that can reinforce prevention efforts.

Local community and youth serving organizations are in a unique leadership position to provide meaningful structured volunteer programs which focus on preventing illegal drug use among youth. Such local organizations have demonstrated in the past that they are best able to address community problems such as illicit drug use among youth because they are closest to the problem and have the greatest stake in solving it. Also, they are most able to include both parents and youth in the planning and implementation of programs to combat illegal drug use—a strategy increasingly recognized as critical to the ultimate effectiveness of such community-based projects.

While youth constitute a most important target for anti-drug programming, drug-free youth also constitute a tremendous resource for a community's drug prevention educational effort. There is a critical need for communities to develop programs which will provide opportunities for drug-free youth to become leaders and role models to help counter peer pressure to use illegal drugs. In addition to being of value to the community, youth volunteers themselves receive significant benefits from providing service to others.

There is particular need for illicit drug prevention programming in public housing neighborhoods. The needs in such communities that may be met through voluntary service are great, and the youth who live in these areas are generally considered at extremely high risk of becoming involved with illegal drugs. This announcement solicits innovative and creative proposals which respond to this need in public housing neighborhoods.

A. Eligible Strategy

Public and private non-profit agencies, including community-based organizations, which provide services to youth residents of public housing are encouraged to submit proposals to implement the following strategy by: (a) Expanding an existing project, (b) or developing a new project.

The proposed program must use non-stipend volunteers to provide illegal drug use prevention education and related activities for youth program participants. It must involve parents, make extensive use of non-stipended youth and/or adult volunteers in its operation, and target youth who reside in public housing communities. There should be special emphasis on the recruitment of volunteers who live in the community being served by the project.

The prevention education component must include information on the harmful consequences of llegal drug use as well as peer pressure resistance and refusal skills. The involvement of other drug prevention educational resources from the community is encouraged.

Additional positive activities to benefit or to involve youth which are designed to reinforce the prevention education process should be built in to the program as well. Such activities may include (but are not limited to): mentoring, tutoring, and recreational/cultural/educational opportunities.

B. Eligible Applicants

Only applications from private non-profit incorporated organizations and public agencies that provide services to youth in public housing will be eligible. Such organizations may include, but are not limited to, local coalitions or councils dedicated to the prevention of illegal drug use, community-based volunteer groups, religious organizations, local government agencies, service clubs, fraternities, sororities and youth-serving organizations.

Any applicant that does not adhere to a strict policy of the non-use of illegal drugs will not be eligible for consideration. Furthermore, an application will be deemed ineligible if it refers to philosophy, proposed activities, training or educational meterials that advocate the tolerance of the initial or responsible use of any illegal drug, and/or the illegal use of any legal drug. This issue must be addressed in the application.

C. Available Funds and Scope of Grant

The amount of a grant will not exceed $9,000 each. Grant funding will be provided on a one-time, non-refundable basis for a budget period not to exceed one year.

All grants awarded under this announcement require a match of at least 10% (cash or in-kind) of the federal share. Additional non-federal match is strongly encouraged, and will be

considered in the decision-making process.

Subject to availability of funds, up to $540,000 will be available for grants under this announcement. Publication of this announcement does not obligate ACTION to award any specific number of grants, or to obligate the entire amount of funds available, or any part thereof.

D. General Criteria for Grant Review and Selection

Grant applications will be reviewed and evaluated based on the criteria outlined below, as well as on conformance to the instructions included in the application.

1. Statement of need that includes both an analysis of the type and extent of the problem to be addressed by the project and an overview of the applicant's qualifications to meet that need.

2. Ability and plans to recruit, train, and retain non-stipended older youth or adult volunteers to assist youth residing in public housing.

3. Ability and plans for volunteers to provide appropriate illicit drug use prevention education (including information about harmful consequences to health from use and resistance training) for youth participants.

4. Ability and plans for volunteers to provide additional positive activities for youth participants (e.g., mentoring, tutoring, recreational/cultural/educational opportunities.).

5. Plans to involve youth and parents in developing and/or implementing the program.

6. Realistic plans to continue project activities beyond the end of the ACTION grant.

7. Evidence of local community support for this project, including three letters from agencies or organizations which make a commitment to participate in the project.

8. Carefully formulated Work Plan which includes time-phased and quantifiable objectives, including objectives for continuation of the project, and the feasibility of proposed methods for meeting those objectives.

9. Innovative approach to combine federal and non-federal resources and volunteer participation, including potential for replication.

10. Evidence of public and private sector support (financial and in-kind). Amount and type of non-federal support will be considered.

E. Application Review Process

Applications submitted under this announcement will be reviewed and evaluated by their respective ACTION State and Regional Offices and ACTION's Program Demonstration and Development Division. ACTION's Associate Director for Domestic and Anti-Poverty Operations will make the final selection. ACTION reserves the right to ask for evidence of any claims of past performance or future capability.

The Associate Director of Domestic and Anti-Poverty Operations may use additional factors in choosing among applicants which meet the minimum criteria specified above, such as:

1. Geographic distribution;

2. Applicant's access to alternate resources; and

3. Allocation of Drug Alliance resources in relation to other ACTION funds.

Pursuant to Public Law 101–204, priority will be given to applicants that have not previously received Drug Alliance funds.

F. Application Submission and Deadline

One signed original and two copies of all completed applications must be submitted to the appropriate ACTION State Office no later than 5 p.m. local standard time on Friday, June 14, 1991. Only those applications that are received at the appropriate ACTION State Office by 5 p.m. local standard time on this date will be eligible.

All grant applications must consist of:

a. Application for Federal Assistance (ACTION Form 424–PDD) with narrative budget justification, a narrative of project goals and objectives, a detailed Work Plan, and Assurances.

b. Signed and dated Certification Regarding Drug Free Workplace Requirements.

c. Signed and dated Certification Regarding Debarment, Suspension, and Other Responsibility Matters Primary Covered Transactions.

d. Current resume of the candidate for the position of project director, if available, or the current resume of the director of the applicant agency or project.

e. Organizational chart of the applicant showing how the project is related to the organization.

f. List of the current board of directors showing their names, addresses and organizational and professional affiliations.

g. Three letters of support attesting to the applicant's ability to meet the above criteria and evidencing intent to cooperate with applicant in development and implementation of project.

h. Statement that identifies previous ACTION funding (type, amounts) or a statement that applicant has not previously received funding from ACTION.

i. CPA certification of accounting capability.

j. Articles of Incorporation including the page that contains the State seal.

k. Proof of non-profit status or an application for non-profit status, which should be made through documentation. Items i, j and k above are not required for public agencies of state and local government.

To receive an application kit, please contact the appropriate ACTION State Program Office. Following is a list of ACTION Regional Offices, along with the addresses and telephone numbers of the ACTION State Program Office under their jurisdiction.

Region I

ACTION Regional Office, 10 Causeway Street, room 473, Boston, MA 02222–1039, 617/565–7000

(Connecticut)
ACTION State Office, 1 Commercial Plaza 21st Floor, Hartford, CT 06103–3510, 203/240–3237

(Maine)
ACTION State Office, U.S. Court House, rm 305, 76 Pearl Street, Portland, ME 04101–4188, 207/780–3414

(Massachusetts)
ACTION State Office, 10 Causeway Street, room 473, Boston, MA 02222–1039, 617/565–7018

(New Hampshire/Vermont)
ACTION State Office, Federal Post Office & Courthouse, 55 Pleasant Street, rm 223, Concord, NH 03301–3939, 603/225–1450

(Rhode Island)
ACTION State Office, John O. Pastore Federal Building, Two Exchange Terrace, room 232, Providence, RI 02903–1758, 401/528–5424

Region II

ACTION Regional Office, 6 World Trade Center, room 758, New York, NY 10048–0206, 212/466–3481

(New Jersey)
ACTION State Office, 44 S. Clinton Avenue, suite 702, Trenton, NJ 08608–1507, 609/989–2243

(Metropolitan New York)
ACTION State Office, 6 World Trade Center, room 758, New York, NY 10048–0206, 212/466–4471

(Upstate New York)
ACTION State Office, U.S. Courthouse & Federal Bldg., 445 Broadway, room 103, Albany, NY 12207–2923, 518/472–3664

(Puerto Rico/Virgin Islands)
ACTION State Office, U.S. Federal Building, 150 Carlos Chardon Avenue, suite G49, Hato Rey, PR 00918–1737, 809/766–5314

Region III

ACTION Regional Office, U.S. Customs House, 2nd & Chestnut St., rm 108, Philadelphia, PA 19106–2912, 215/597–9972

(Delaware/Maryland)

ACTION State Office, Federal Building, 31 Hopkins Plaza, room 1125, Baltimore, MD 21201–2814, 301/962–4443
(Kentucky)
ACTION State Office, Federal Building, room 372–D, 600 Federal Place, Louisville, KY 40202–2230, 502/582–6384
(Ohio)
ACTION State Office, Leveque Tower, room 304A, 50 W. Broad Street, Columbus, OH 43215, 614/469–7441
(Pennsylvania)
ACTION State Office, US Customs House, room 108, 2nd & Chestnut Streets, Philadelphia, PA 19106–2998, 215/597–3543
(Virginia/Dist. of Columbia)
ACTION State Office, 400 North 8th St., rm 1119, P.O. Box 10066, Richmond, VA 23240–1832, 804/771–2197
(West Virginia)
ACTION State Office, 603 Morris Street, 2nd Floor, Charleston, WV 25301–1409, 304/347–5246

Region IV

ACTION Regional Office, 101 Marietta St., NW., Suite 1003, Atlanta, GA 30323–2301, 404/331–2859
(Alabama)
ACTION State Office, Beacon Ridge Tower, rm 770, 600 Beacon Parkway West, Birmingham, AL 35209–3120, 205/731–1908
(Florida)
ACTION State Office, 3165 McCrory Street, suite 115, Orlando, FL 32803–3750, 407/648–6117
(Georgia)
ACTION State Office, 75 Piedmont Ave., NE., suite 412, Atlanta, GA 30303–2587, 404/331–4646
(Mississippi)
ACTION State Office, Federal Building, rm 1005–A, 100 West Capital Street, Jackson, MS 39269–1092, 601/965–5664
(North Carolina)
ACTION State Office, Federal Bldg., P.O. Century Station, 300 Fayetteville Street Mall, rm 131, Raleigh, NC 27601–1739, 919/856–4731
(South Carolina)
ACTION State Office, Federal Building, room 872, 1835 Assembly Street, Columbia, SC 29201–2430, 803/765–5771
(Tennessee)
ACTION State Office, 265 Cumberland Bend Drive, Nashville, TN 37228, 615/736–5561

Region V

ACTION Regional Office, 175 West Jackson Blvd., suite 1207, Chicago, IL 60604–3964, 312/353–5107
(Illinois)
ACTION State Office, 175 West Jackson Blvd, suite 1207, Chicago, IL 60604–3964, 312/353–3622,
(Indiana)
ACTION State Office, 46 East Ohio Street, room 457, Indianapolis, IN 46204–1922, 317/226–6724
(Iowa)
ACTION State Office, Federal Building, rm 722, 210 Walnut, Des Moines, IA 50309–2195, 515/284–4816
(Michigan)
ACTION State Office, Federal Bldg., room 658, 231 West Lafayette Blvd., Detroit, MI 48226–2799, 313/226–7848
(Minnesota)
ACTION State Office, 431 South 7th Street, room 2480, Minneapolis, MN 55415, 612/334–4083
(Wisconsin)
ACTION State Office, 517 East Wisconsin Ave., rm 601, Milwaukee, WI 53202–4507, 414/291–1118

Region VI

ACTION Regional Office, 1100 Commerce, rm 6B11, Dallas, TX 75242–0696 214/.767–9494
(Arkansas)
ACTION State Office, Federal Building, room 2506, 700 West Capitol Street, Little Rock, AR 72201–3291, 501/324–5234
(Kansas)
ACTION State Office, Federal Building, room 248, 444 S.E. Quincy, Topeka, KS 66603–3501, 913/295–2540
(Louisiana)
ACTION State Office, 626 Main Street, suite 102, Baton Rouge, LA 70801–1910, 504/389–0471
(Missouri)
ACTION State Office, Federal Office Building, 911 Walnut, room 1701, Kansas City, MO 64106–2009, 816/426–5256
(New Mexico)
ACTION State Office, First Interstate Plaza, 125 Lincoln Avenue, suite 214–B, Santa Fe, NM 87501, 505/988–6577
(Oklahoma)
ACTION State Office, 200 NW 5th, suite 912, Oklahoma City, OK 73102–6093, 405/231–5201
(Texas)
ACTION State Office, 611 East Sixth Street, suite 404, Austin, TX 78701–3747, 512/482–5671

Region VIII

ACTION Regional Office, Executive Tower Building, 1405 Curtis Street, Suite 2830, Denver, CO 80202–2349, 303/844–2671
(Colorado)
ACTION State Office, Columbine Bldg., room 301, 1845 Sherman Street, Denver, CO 80203–1167, 303/866–1070
(Montana)
ACTION State Office, Federal Office Bldg., Drawer 10051, 301 South Park, rm 192, Helena, MT 59626–0101, 406/449–5404
(Nebraska)
ACTION State Office, Federal Bldg., room 293, 100 Centennial Mall North, Lincoln, NE 68508–3896, 402/437–5493
(North & South Dakota)
ACTION State Office, Federal Building, room 213, 225, S. Pierre Street, Pierre, SD 57501–2452, 605/224–5996
(Utah)
ACTION State Office, U.S. Post Office & Courthouse, 350 South Main St., room 484, Salt Lake City, UT 84101–2198, 801/524–5411
(Wyoming)
ACTION State Office, Federal Building, room 8009, 2120 Capitol Avenue, Cheyenne, WY 82001–3649, 307/772–2385

Region IX

ACTION Regional Office, 211 Main Street, Rm 530, San Francisco, CA 94105–1914, 415/744–3013
(Arizona)
ACTION State Office, 522 North Central, rm 205–A, Phoenix, AZ 85004–2190, 602/379–4825
(California)
ACTION State Office, 211 Main Street, room 534, San Francisco, CA 94105–1914, 415/744–3015
ACTION State Office, Federal Building, room 14218, 11000 Wilshire Blvd. Los Angeles, CA 90024–3671
(Hawaii/Guam/American Samoa)
ACTION State Office, Federal Building, room 6326, 300 Ala Moana Boulevard, P.O. Box 50024, Honolulu, HI 96850–0001, 808/541–2832
(Nevada)
ACTION State Office, 4600 Kietzke Lane, suite E–141, Reno, NV 89502–5033, 702/784–5314

Region X

ACTION Regional Office, Jackson Federal Building, 915 Second Avenue, Ste. 3190, Seattle, WA 98174–1103, 206/553–4520
(Alaska)
ACTION State Office, Suite 3039, Federal Office Bldg., 909 First Avenue, Seattle, WA 98174–1103, 206/442–1558
(Idaho)
ACTION State Office, 304 North 8th Street, room 344, Boise, ID 83702, 208/334–1707
(Oregon)
ACTION State Office, Federal Bldg., room 647, 511 NW Broadway, Portland, OR 97209–3416, 503/326–2261
(Washington)
ACTION State Office, Suite 3190, Jackson Federal Bldg., 915 Second Avenue, Seattle, WA 98174–1103, 206/442–4975

Signed at Washington, DC., this 18th day of April, 1991.

Jane A. Kenny,

Director.

[FR Doc. 91–10078 Filed 4–29–91; 8:45 am]

BILLING CODE 6050–28

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Governmental Processes; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of a meeting of the Committee on Governmental Processes of the Administrative Conference of the United States. The meeting will be held at 10 a.m. on Wednesday, May 8, 1991, at the Administrative Conference of the United States, 2120 L Street, NW., suite 500, Washington, DC 20037 (Library, 5th Floor).

The committee will meet for further discussion of the Conference's draft

recommendation on the National Vaccine Injury Compensation Program. The proposed recommendation is based in part on a draft report written by Professor Wendy K. Mariner of the Boston University Schools of Public Health and Medicine. The committee may also discuss the status of other pending projects.

For further information concerning this meeting, contact David M. Pritzker, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., suite 500, Washington, DC. (Telephone: 202–254–7065.)

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 in 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: April 25, 1991.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 91–10227 Filed 4–29–91; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

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 January 1, 1991, and March 30, 1991. 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: April 30, 1991.

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.

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 January 1, 1991, and March 30, 1991, and pending scope clarification requests. The ITA intends to publish in July 1991 a notice of scope rulings completed between April 1, 1991, and June 30, 1991.

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 January 1, 1991, and March 30, 1991

Country: Canada.

C–122–505: Oil Country Tubular Goods; Algoma Steel Corp., Ltd.—seamless mechanical tubing/certain coupling stock meeting criteria are excluded from the scope of the order—03/28/91.

A–122–506: Oil Country Tubular Goods; Algoma Steel Corp., Ltd.—seamless mechanical tubing/certain coupling stock meeting criteria are excluded from the scope of the order—03/28/91.

A–122–605: Color Picture Tubes: International Association of Machinists and Aerospace Workers, the International Brotherhood of Electrical Workers, the International Union of Electronic, Electrical, Salaried Machine and Furniture Workers, Industrial Union Department, AFL–CIO, and the United Steelworkers of America—the order on color picture tubes (CPTs) from Canada is not being circumvented by the assembly of CPTs into color television receivers in Mexico before importation into the United States—02/28/91.

Country: Argentina.

C–357–803: Leather; Howes Leather Company, Inc.—HTS subheadings 42053.30.0000 and 4205.00.4000 are GSP categories and may not be included within the scope of the order without an ITC injury finding and parts of footwear made of leather, such as shoe soles, entering under HTS subheading 6404.99.6000, are not within the scope of the order—02/02/91.

Country: Singapore.

A–559–601: Color Picture Tubes: International Association of Machinists and Aerospace Workers, the International Brotherhood of Electrical Workers, the International Union of Electronic, Electrical, Salaried Machine and Furniture Workers, Industrial Union Department, AFL–CIO, and the United Steelworkers of America—the order on color picture tubes (CPTs) from Singapore is not being circumvented by the assembly of CPTs into color television receivers in Mexico before importation into the United States—02/28/91.

Country: People's Republic of China.

A–570–506: Porcelain-on-Steel Cookware.

CGS International—The high quality, hand finished cookware, including the small basin, medium basin, large basin, small colander, large colander, 8" bowl, 6" bowl, mugs, ash tray, napkin rings, utensil holder and utensils, ladle, cream & sugar, and mixing bowls are properly considered kitchen ware and are outside the scope of the order. Further, the casserole, 12-cup coffee pot, 6-cup coffee pot, roasting pan, oval roaster, and butter warmer are within the scope of the order—01/30/91.

Country: Republic of Korea.

A–580–501: Photo Albums and Filler Pages:

Customs—Baseball card albums are not within the scope of the order—01/15/91.

A–580–605: Color Picture Tubes: International Association of Machinists and Aerospace Workers, the International Brotherhood of Electrical Workers, the International Union of Electronic, Electrical, Salaried Machine and Furniture Workers, Industrial Union Department, AFL–CIO, and the United Steelworkers of America—the order on color picture tubes (CPTs) from the Republic of Korea is not being circumvented by the assembly of CPTs into color television receivers in Mexico before importation into the United States—02/28/91.

Country: Japan.

A–588–015: Television Receivers, Monochrome and Color:

Manhattan Electric—Dual voltage Hitachi TVs are within the scope of the order—02/07/91.

A–588–405: Cellular Mobile Telephones and Subassemblies:

Mitsubishi—Hands-free device is not within the scope of the order—02/06/91.

A–588–609: Color Picture Tubes: International Association of Machinists and Aerospace Workers, the International Brotherhood of Electrical Workers, the International Union of Electronic, Electrical, Salaried Machine and Furniture Workers, Industrial Union Department, AFL–CIO, and the United Steelworkers of America—the order on color picture tubes (CPTs) from Japan is not being circumvented by the assembly of CPTs into color television receivers in Mexico before importation into the United States—02/28/91.

A–588–809: Certain Small Business Telephone Systems and Subassemblies Thereof:

Iwatsu Electric Co., Ltd., and Iwatsu America, Inc.—Iwatsu ADIX–450 system is not within the scope of the order—01/18/91.

Pending Scope Inquiries as of March 30 1991

Country: Sweden.

A–401–801: Antifriction Bearings:

Lindsay Forest Products, Inc.—Patented design, square wires for debarker rotors.

Country: United Kingdom.

A–412–801: Antifriction Bearings:

Essco Inc.—"Linear motion bearings"

Country: Federal Republic of Germany.

A–428–801: Antifriction Bearings:

FAG Kugelfischer Georg Schaefer KGaA—Certain textile machinery components.

FAG Kugelfischer Georg Schaefer KGaA—Certain needle roller bearings.

SKF Textilmaschinen-Komponenten GmbH ad SKF Textile Products, Inc.—Textile machinery component (rotor assembly number TE 226–0036225).

Wafios Machinery Corporation—"Machine parts"

Reifenhauser-Van Dorn Co.—Spare parts (bearings) to rebuild gear box.

A–428–802: Industrial Belts:

Ernst Siegling and Siegling America—Nylon core flat belts.

Country: Italy.

A–475–801: Antifriction Bearings:

SKF Component System Co.—7/32" chrome steel balls.

Meter SpA—Load and thrust rollers, chain sheaves, and wheels—preliminary issued 03/07/91.

Country: Thailand.

C–549–501: Pipe and Tube:

Intrepid; British Standard Pipe.

Country: Singapore.

A–559–801: Antifriction Bearings:

SKF—Loose ball rollers used in textile drafting machinery (top rollers).

C–559–802: Antifriction Bearings:

SKF—Loose ball rollers used in textile drafting machinery (top rollers).

Country: People's Republic of China.

A–570–003: Cotton Shop Towels:

Win-Tex Products, Inc.—Towels assembled in Honduras.

A–570–504: Petroleum Wax Candles:

Fabri-centers of America, Inc.—Citronella candles.

Country: Korea.

A–580–008: Color Television Receivers:

Goldstar—TV/Radio model RCV–0615.

Goldstar—TV/VCR model KMV–9002.

Commodore Business Machines—Computer monitor model 1084(D).

Granada Hospital Group—Spectrum C–10 Interactive Receiver.

A–580–605: Color Picture Tubes:

Penn-Ray Sutra Corp.—Video game displays.

A–580–803: Certain Small Business Telephone Systems and Subassemblies Thereof:

TT Systems Corporation—Simtel 420 telephone set.

Cord Electronics, Inc.—Digital Display Set telephone set (DDS).

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.

P.T. Imports, Inc.—multiple voltage and receiving system TVs, JVC series "ME and "MU".

A–588–087: Portable Electric Typewriters:

Tokyo Juki—"Office" typewriter models: Juki Sierra 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.

Smith Corona Corporation—Anti-circumvention inquiry to determine whether Brother Industries, Ltd. and Brother Industries (USA), Inc., by importing parts and components from Japan, and assembling them into finished portable electric typewriters for sale in the U.S. is circumventing the order.

A–588–804: Antifriction Bearings:

DHL Worldwide Express—Certain bearings.

A–588–405: Cellular Mobile Telephones and Subassemblies:

Mitsubishi Electric Corporation—RF power semiconductor amplifiers.

Murata Manufacturing Co., Ltd., and Murata Erie North America, Inc.—Voltage control oscillators (VCOs), active filters, and duplexers.

A–588–802: 3.5" Microdisks and and Coated Media Thereof:

Kao Infosystems Company—Certain unprepared media.

Teijin Memorimedia—unburnished media.

A–588–806: Electrolytic Manganese Dioxide:

Sumitomo—High-grade chemical manganese dioxide (CMD–U).

A–588–807: Industrial Belts:

Dataplex—Belts for magnetic ink character recognition.

A–588–809: Certain Small Business Telephone Systems and Subassemblies Thereof:

Iwatsu Electric and Iwatsu America—Subassemblies including: common and expansion modules, circuit cards, power supplies, and stations.

Kyushu Matsushita Electric Co., Ltd.—KME 336, certain subassemblies, and accessories.

A–588–810: Mechanical Transfer Presses:

Aida Engineering—Spare and replacement parts.

Customs—Destack sheet feeder.

General Request: Customs requested the Department determine whether ceramic bearings are within the scope of the orders on antifriction bearings.

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: April 25, 1991.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 91–10260 Filed 4–29–91; 8:45 am]

BILLING CODE 3510–DS–M

[A-357-804]

Postponement of Final Antidumping Duty Determination: Silicon Metal from Argentina

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department is postponing its final determination as to whether imports of silicon metal are being, or are likely to be, sold in the United States at less than fair value until not later than August 12, 1991.

EFFECTIVE DATE: April 30, 1991.

FOR FURTHER INFORMATION CONTACT: James Terpstra or James Maeder, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-3965 or (202) 377-4929 respectively.

SUPPLEMENTARY INFORMATION: On March 29, 1991, we published a preliminary determination of sales at less than fair value on silicon metal from Argentina (56 FR 13116). That notice stated that if the investigation proceeded normally, we would make our final determination by June 5, 1991.

On April 5, 1991, Electrometalurgica Andina S.A.I.C. (Andina), respondent in this case, requested a postponement of the date of the final determination pursuant to 19 CFR 353.20(b). Andina accounts for all exports of the subject merchandise from Argentina to the United States. If exporters who account for a significant proportion of exports of the merchandise under investigation request an extension subsequent to an affirmative preliminary determination, we are required, absent compelling reasons to the contrary, to grant the request. Accordingly, pursuant to 19 CFR 353.20(b) and section 735(a)(2)(A) of the Tariff Act of 1930, as amended, (the Act), we are postponing the date of the final determination until not later than August 12, 1991.

Public Comment

In accordance with 19 CFR 353.38, we will hold a public hearing to afford interested parties an opportunity to comment on the preliminary determination in the antidumping duty investigation of silicon metal from Argentina. The hearing will be held at 1 p.m. on May 29, 1991, at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue, NW., Washington, DC, 20230.

Interested parties who wish to participate in the hearing must submit ten copies of the business proprietary version and five copies of the public version of case briefs or other written comments to the Assistant Secretary for Import Administration, room B-099, at the above address, no later than May 22, 1991. Rebuttal briefs must be submitted no later than May 27, 1991. In accordance with 19 CFR 353.38(b), oral presentations will be limited to the issues raised in the briefs.

The U.S. International Trade Commission is being advised of this postponement, in accordance with section 735(d) of the Act. This notice is published pursuant to 19 CFR 353.20(b)(2) and section 735(d) of the Act.

Dated: April 24, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91-10161 Filed 4-29-91; 8:45 am]

BILLING CODE 3510-DS-M

[C-507-501]

In-Shell Pistachios from Iran; Determination Not to Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of determination not to revoke countervailing duty order.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the countervailing duty order on in-shell pistachios from Iran.

EFFECTIVE DATE: April 30, 1991.

FOR FURTHER INFORMATION CONTACT: Mark Spellun or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION: On March 8, 1991, the Department of Commerce ("the Department") published in the **Federal Register** (56 FR 9936) its intent to revoke the countervailing duty order on in-shell pistachios from Iran (51 FR 8344; March 11, 1986). In accordance with 19 CFR 355.25(d)(4) (iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no interested party objects to revocation or requests an administrative review by the last day of the fifth anniversary month. We had not received a request for an administrative review of the order for the last four consecutive annual anniversary months.

On March 25, 1991, the California Pistachio Commission and the Western Pistachio Association (originally the California Pistachio Association) objected to our intent to revoke the order. Therefore, we no longer intend to revoke the order.

This notice is in accordance with 19 CFR 355.25(d).

Dated: April 23, 1991.

Roland MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 91-10162 Filed 4-29-91; 8:45 am]

BILLING CODE 3510-DS-M

Short-Supply Review; Certain Hot-Rolled D6A Alloy Steel Strip

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice of Short-Supply Review and Request for Comments on Certain Hot-Rolled D6A Alloy Steel Strip.

SUMMARY: The Secretary of Commerce ("Secretary") hereby announces a review and request for comments on a short-supply request for 1,985 net tons of certain hot-rolled D6A alloy steel strip under Article 8 of the U.S.-EC steel arrangement for the remainder of 1991.

Short-Supply Review Number: 49.

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 § 357.104(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 hot-rolled D6A alloy steel strip, which is processed into cold-rolled D6A alloy strip for use in the production of bi-metal band saws. On April 24, 1991, the Secretary received an adequate petition from Theis Precision Steel Corporation ("Theis") requesting a short-supply allowance for 1,985 net tons of this product 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.

The requested product is a certain grade of D6A steel hot-rolled strip (black or descaled as specified by purchase order) that is suitable for

electron beam welding and meets the following specifications:

Thickness range: 0.080–0.125 inch;
Width range: 10–16 inches;
Chemical Composition (Ladle Analysis): Carbon (0.45–0.50); Manganese (0.60–0.90); Phosphorus (0.015 max.); Sulfur (0.010 max., aim as low as possible); Silicon (0.10–0.25); Nickel (0.50–0.70); Chromium (0.90–1.10); Molybdenum (0.90–1.10; Vanadium (0.08–0.15); Copper (0.20 max.); Aluminum (0.05–0.10, acid soluble); Hydrogen (15 ppm max.); Nitrogen (300 ppm max.); and Oxygen (150 ppm max.);
Condition: High quality steel made by the best steelmaking practice necessary to produce an extremely clean sound steel required for good electron beam welds;
Quality Requirements of Hot-Rolled Strip:
a. *Non-Metallic Inclusion Rating:* Utilize a sampling plan as outlined under Article 6 of ASTM E45–81.
b. *Surface Quality:* Inspection of the hot acid descaled surface shall reveal no detrimental surface defects such as slivers, shingle seams, labs, cold shuts, etc. which would affect the finished cold-rolled product;
Internal Soundness: A transverse section deep etched in hot acid and examined shall show no primary or secondary pipe, excessive segregation porosity or other injurious internal defects;
Microstructure:
a. *Grain size:* The McQuaid Ehn grain size shall be fine 6–8 as determined in accordance with ASTM E112–81 Annex A–3.
b. *Decarburization:* Shall be determined on transverse specimens taken one inch from the edges and the center of the strip properly polished and etched and microscopically measured for partial and complete decarburization.
c. *General Microstructure:* Shall be typical hot band fine pearlitic structure with minimum martensite;
Edge: Shall be the natural #2 mill edge or #3 slit edge and does not have to conform to any definite contour;
Size Variation Limits:
a. *Width:* The tolerance for mill edge width shall not exceed ±0.062 inch for a width of 10 inches and ±0.094 inch for widths over 10 inches.
b. *Camber:* Shall be measured by placing an 8 foot straight edge on the concave side edge and measuring the greatest distance b tween the straight edge and the steep strip. The camber shall not exceed ¼ inch in 8 feet;
Size of Coils: The inside diameter shall be 16–24 inches. The outside diameter shall be 54 inches max. with 16 inches I.D.; however, 58 inches max. O.D. shall be allowed with 20–24 inches I.D. if the band is pickled and annealed. There shall be no fish tail ends.

Section 4(b)(4)(B)(i) of the Act and § 357.106(b)(1) of Commerce's Short-Supply Procedures require the Secretary to make a determination with respect to a short-supply petition not later than the 15th day after the petition is filed if the Secretary finds that one of the following conditions exists: (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 has made affirmative short-supply determinations for this product in each of the two immediately preceding years; therefore, in accordance with section 4(b)(4)(B)(i)(II) of the Act and § 357.106(b)(1)(ii) of Commerce's Short-Supply Procedures, the Secretary is applying a rebuttable presumption that this product is presently in short supply. Unless domestic steel producers provide comments in response to this notice indicating that they can and will supply this product within the requested period of time, provided it represents a normal order-to-delivery period, the Secretary will issue a short-supply allowance not later than May 9, 1991.

COMMENTS: Interested parties wishing to comment upon this review must send written comments not later than May 7, 1991, to the Secretary of Commerce, Attention: Import Administration, room 7866, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW., Washington, DC 20230. 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: Sally A. Craig 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) 377–0165 or (202) 377–0159.

Dated: April 26, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91–10277 Filed 4–29–91; 8:45 am]

BILLING CODE 3510–DS–M

COMMISSION ON AGRICULTURAL WORKERS

Commission on Agricultural Workers; Meeting

AGENCY: Commission on Agricultural Workers.

ACTION: Announcement of workshop and meeting.

SUMMARY: This notice announces a workshop and meeting of the Commission on Agricultural Workers. The Commission was established by the Immigration Reform and Control Act (IRCA) of 1986 under section 304.

On Thursday May 23, Commissioners will hear a historical report and discussion on the agricultural services of the Federal-State Employment Service system. There will be commentary on these activities from industry and labor perspectives. On Friday, May 24, the Commission will hold a meeting to review its research program.

DATES: 9 a.m.–5 p.m., May 23, 1991 and 10 a.m.–noon, May 24, 1991.

ADDRESSES: Conference Room—Dupont Room, Dupont Plaza Hotel, 1500 New Hampshire Ave., NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Beth Bickley, Telephone: (202) 673–5348.

Dated: April 24, 1991.

Aaron Bodin,

Executive Director.

[FR Doc. 91–10112 Filed 4–29–91; 8:45 am]

BILLING CODE 6820–62–M

CONSUMER PRODUCT SAFETY COMMISSION

Notification of Proposed Collection of Information; Survey of Garage Door Operator Manufacturers for Compliance With Requirements of the Consumer Product Safety Improvement Act of 1990

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1981 (44 U.S.C. chapter 35), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for approval of a proposed collection of information in the form of a survey of manufacturers of garage door operators to determine compliance with provisions of section 203 of the Consumer Product Safety Improvement Act of 1990. The requested expiration date is May 31, 1992.

SUPPLEMENTARY INFORMATION: Section 203 of the Consumer Product Improvement Act of 1990 (Pub. L. 101–608, 104 Stat. 3110) provides that on and after January 1, 1991, each automatic residential garage door opener shall conform to the entrapment protection requirements of the Underwriters Laboratories standard designated UL 325, third edition, as revised May 4, 1988. That legislation provides further that on and after July 1, 1991, all manufacturers of automatic residential garage door openers shall, after consultation with the Commission, notify the public of the potential entrapment hazard associated with automatic garage door openers, and advise the public to test the entrapment protection features of their openers. The Commission proposes to conduct a survey of the garage door operator industry to determine the level of compliance with the entrapment protection requirements of the standard designated UL 325, as revised May 4, 1988, and other requirements of section 203 of the Improvement Act of 1990. (Section 203 refers to the product as a garage door "opener." However, the term garage door "operator" is used by the industry because the product closes a garage door in addition to opening it.) The Commission will conduct this survey by inspecting each firm which manufacturers or imports residential automatic garage door operators. During this survey, the Commission will request each firm inspected to provide information about the firm's compliance with the performance and labeling requirements of section 203 of the Improvement Act of 1990. This survey will also request information from each firm inspected about the firm's plans for notifying the public about the potential entrapment hazard associated with automatic garage door operators, and for advising the public to test the entrapment protection feature of garage door operators.

During this survey, the Commission will examine records relating to production, testing, and labeling of residential automatic garage door operators. The Commission may collect samples from some manufacturers and importers.

The Commission will use the information obtained from this survey to assess the overall level of compliance with the entrapment provisions of the standard designated UL 325, as revised May 4, 1988. The Commission may also use information obtained from inspections of individual firms in legal actions against any firm which is determined to have manufactured or imported any residential automatic garage door operator after January 1, 1991, not in conformance with the entrapment protection requirements of UL 325, as revised May 4, 1988, or other requirements of section 203 of the Improvement Act of 1990.

Additional Details About the Request for Approval of a Collection of Information

Agency address: Consumer Product Safety Commission, Washington, DC 20207.

Title of information collection: Survey of Compliance with the Standard for Automatic Garage Door Operators.

Type of request: Approval of a new plan.

Frequency of collection: One time.

General description of respondents: Manufacturers and importers of automatic garage door operators.

Total number of respondents: 50.

Hours per response: 6.

Total hours for all respondents: 300.

Comments: Comments about this request for approval of a collection of information should be addressed to Elizabeth Harker, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; telephone (202) 395–7340. Copies of the request for approval of a collection of information are available from Francine Shacter, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492–6416.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: April 24, 1991.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 91–10142 Filed 4–29–91; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Assistant Secretary of Defense (Command, Control, Communications and Intelligence)

Executive Level Group for Defense Corporate Information Management; Meeting

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Department of Defense announces a meeting of the Executive Level Group for Defense Corporate Information Management. The agenda for this meeting is to review plans for implementation of Corporate Information Management in the Department of Defense.

DATE AND TIME: May 13, 1991, 1:45 p.m.–4 p.m.

ADDRESS: Hyatt Regency Hotel—Crystal City, room F, 2799 Jefferson-Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: William H. Leary III, Deputy Director for Policy, (703) 695–0561.

Dated: April 25, 1991.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91–10120 Filed 4–29–91; 8:45 am]

BILLING CODE 3810–01–M

Office of the Secretary of Defense

DOD Advisory Group on Electron Devices Advisory Committee, Meeting

SUMMARY: Working Group A (Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Wednesday, 8 May 1991.

ADDRESSES: The meeting will be held at the Palisades Institute for Research

Services, Inc., 2011 Crystal Drive, One Crystal Park, suite 307, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Becky F. Terry, AGED Secretariat, 2011 Crystal Drive, suite 307, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave devices, electronic warfare devices, millimeter wave devices, and passive devices. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Public Law No. 92-463, as amended, (5 U.S.C. App. II 10(d) (1988)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly, this meeting will be closed to the public.

Dated: April 25, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-10121 Filed 4-29-91; 8:45 am]

BILLING CODE 3810-01-M

Defense Communications Agency

[Requisition Number 238A]

Scientific Advisory Group (SAG); Closed Meeting

The DCA Scientific Advisory Group will hold a closed meeting on May 30-31, 1991, at the center for Naval Analysis Building, 4401 Ford Avenue, Alexandria, Virginia 22302.

The purpose of the meeting is to address technology and management planning issues relating to DoD's information management initiative and DCA's roles and missions.

Any persons desiring information about the Advisory Group may telephone, 202-746-3643, or write Associate Director, Defense Communications Agency, 8th Street and South Courthouse Road, Arlington, Virginia 22204.

This is a closed meeting due to the discussion of classified material which requires protection in the interest of National Defense. (5 U.S.C. 552(c)(1)).

Col. Dennis M. Moen,

Deputy Associate Director.

[FR Doc. 91-10125 Filed 4-29-91; 8:45 am]

BILLING CODE 3610-05-M

Defense Logistics Agency

Privacy Act of 1974; Amend a Record System

AGENCY: Defense Logistics Agency (DLA), DOD.

ACTION: Amend a record system.

SUMMARY: The Defense Logistics Agency proposes to amend one existing record system to its inventory of record system notices subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a).

DATES: The proposed action will be effective without further notice on May 30, 1991, unless comments are received which would result in a contrary determination.

ADDRESSES: Ms. Susan Salus, DLA-XAM, Defense Logistics Agency, Cameron Station, Alexandria, VA 22304-6100. Telephone (202) 274-6234 or Autovon 284-6234.

SUPPLEMENTARY INFORMATION: The complete inventory of Defense Logistics Agency record system notices subject to the Privacy Act of 1974, as amended, have been published in the **Federal Register** as follows:

50 FR 22897, May 29, 1985 (DoD Compilation, changes follow)
50 FR 51898, Dec. 20, 1985
51 FR 27443, Jul. 31, 1986
51 FR 30104, Aug. 22, 1986
52 FR 35304, Sep. 18, 1987
52 FR 37495, Oct. 7, 1987
53 FR 04442, Feb. 16, 1988
53 FR 09965, Mar. 28, 1988
53 FR 21511, Jun. 8, 1988
53 FR 26105, Jul. 11, 1988
53 FR 32091, Aug. 23, 1988
53 FR 39129, Oct. 5, 1988
53 FR 44937, Nov. 7, 1988
53 FR 48708, Dec. 2, 1988
54 FR 11997, Mar. 23, 1989
55 FR 21918, May 30, 1990 (DLA Address Directory)
55 FR 32284, Aug. 8, 1990
55 FR 34050, Aug. 21, 1990
55 FR 42755, Oct. 23, 1990
55 FR 53178, Dec. 27, 1990
56 FR 5806, Feb. 13, 1991
56 FR 8967, Mar. 4, 1991
56 FR 11207, Mar. 15, 1991

The specific changes to the record system being amended are set forth below, followed by the system notice, as amended, in its entirety. This notice is not within the purview of subsection (r) of the Privacy Act of 1974, as amended, (5 U.S.C. 552a), which requires the submission of an altered system report.

Dated: April 25, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S322.10 DMDC

SYSTEM NAME:

Defense Manpower Data Center Data Base, (55 FR 42755, October 23, 1990).

changes:

* * * * *

CATEGORIES OF RECORDS COVERED BY THE SYSTEM:

Add a new sentence to the sixth paragraph "U.S. Postal Service records will be maintained on a temporary basis for approved computer matching between the U.S. Postal Service and DoD."

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Under paragraph three, delete subparagraph three in its entirety, and replace it with the following subparagraphs "3. Providing identification of reserve duty, including full-time support National Guard/Reserve military personnel, to the DVA, for the purpose of deducting reserve time served from any VA disability compensation paid or waiver of DVA benefit. The law (10 U.S.C. 684) prohibits receipt of reserve pay and VA compensation for the same time period, however, it does permit waiver of VA compensation to draw reserve pay."

4. Providing identification of former active duty military personnel who received separation payments to the DVA for the purpose of deducting such repayment from any DVA disability compensation paid. The law (38 U.S.C. 3104(c)) requires recoupment of severance payments before DVA disability compensation can be paid.

5. Providing identification of former military personnel and survivor's financial benefit data to DVA for the purpose of identifying military retired pay and survivor benefit payments for use in the administration of the DVA's Compensation and Pension program (38 U.S.C. 3104(c), 3006-3008). The information is to be used to process all VA award actions more efficiently, reduce subsequent overpayment

collection actions, and minimize erroneous payments."

Add to the end of the entry the following new paragraphs "To the United States Postal Service to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purposes of:

1. Exchanging civil service and Reserve military personnel data to identify those individuals of the Reserve forces who are employed by the Federal government in a civilian position. The purpose of the match is to identify those particular individuals occupying critical positions as civilians and who cannot be released for extended active duty in the event of mobilization. The Postal Service is informed of the reserve status of those affected personnel so that the reserve assignment can be terminated. The authority for conducting the computer match is contained in E.O. 11190, Providing for the Screening of the Ready Reserve of the Armed Forces.

2. Exchanging personnel and financial information on regular military officer retirees who are also civilian employees of the Federal government, for the purpose of identifying those individuals subject to a limitation on the amount of retired military pay they can receive under the Dual Compensation Act (5 U.S.C. 5532), and permit adjustments to military retired pay to be made by the Defense Finance and Accounting Service and to take steps to recoup excess of that permitted under the dual compensation and pay cap restrictions."

* * * * *

RETENTION AND DISPOSAL:

Add a new paragraph "U.S. Postal Service records are temporary and are destroyed after the computer matching program results are verified.

* * * * *

S322.10 DMDC

SYSTEM NAME:

Defense Manpower Data Center Data Base.

SYSTEM LOCATION:

Primary location—W.R. Church Computer Center, Naval Postgraduate School, Monterey, CA 93920–5000.

Back-up files maintained in a bank vault in Hermann Hall, Naval Postgraduate School, Monterey, CA 93920–5000.

Decentralized segments—Portions of this file may be maintained by the military and non-appropriated fund personnel and finance centers of the military services, selected civilian contractors with research contracts in manpower area, and other Federal agencies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All uniformed services officers and enlisted personnel who served on active duty from July 1, 1968, and after or who have been a member of a reserve component since July 1975; retired military personnel; participants in Project 100,000 and Project Transition, and the evaluation control groups for these programs. All individuals examined to determine eligibility for military service at an Armed Forces Entrance and Examining Station from July 1, 1970, and later.

DoD civilian employees since January 1, 1972. All veterans who have used the GI Bill education and training employment services office since January 1, 1971. All veterans who have used GI Bill education and training entitlements, who visited a state employment service office since January 1, 1971, or who participated in a Department of Labor special program since July 1, 1971. All individuals who ever participated in an educational program sponsored by the U.S. Armed Forces Institute and all individuals who ever participated in the Armed Forces Vocational Aptitude Testing Programs at the high school level since September 1969.

Individuals who responded to various paid advertising campaigns seeking enlistment information since July 1, 1973; participants in the Department of Health and Human Services National Longitudinal Survey. Individuals responding to recruiting advertisements since January 1987; survivors of retired military personnel who are eligible for or currently receiving disability payments or disability income compensation from the Department of Veterans Affairs; surviving spouses of active or retired deceased military personnel; 100% disabled veterans and their survivors.

Individuals receiving disability compensation from the Department of Veterans Affairs or who are covered by a Department of Veterans Affairs' insurance or benefit program; civilian employees of the Federal Government; dependents of active duty military retirees, selective service registrants.

Individuals receiving a security background investigation as identified in the Defense Central Index of Investigation. Former military and civilian personnel who are employed by DoD contractors and are subject to the provisions of 10 U.S.C. 2397.

All U.S. Postal Service employees.

All non-appropriated funded individuals who are employed by the Department of Defense.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computerized personnel/employment/pay records consisting of name, Service Number, Selective Service Number, Social Security Number, compensation data, demographic information such as home town, age, sex, race, and educational level; civilian occupational information; civilian and military acquisition work force warrant location, training and job specialty information; military personnel information such as rank, length of service, military occupation, aptitude scores, post-service education, training, and employment information for veterans; participation in various inservice education and training programs; military hospitalization records; and home and work addresses.

CHAMPUS claim records containing enrollee, patient and health care facility, provided data such as cause of treatment, amount of payment, name and Social Security or tax ID of providers or potential providers of care.

Selective Service System registration data.

Department of Veterans Affairs disability payment records.

Credit or financial data as required for security background investigations.

Criminal history information on individuals who subsequently enter the military.

U.S. Postal Service employment/personnel records containing Social Security Number, name, salary, home and work address. U.S. Postal Service records will be maintained on a temporary basis for approved computer matching between the U.S. Postal Service and DoD.

Non-appropriated fund employment/personnel records consist of Social Security Number, name, and work address.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136, Assistant Secretaries of Defense; Appointment Powers and Duties; 10 U.S.C. 2358; Research Projects; Pub. L. 95–452, as amended (Inspector General Act of 1978); and Executive Order 9397.

PURPOSE(S):

The purpose of the system of records is to provide a single central facility within the Department of Defense to assess manpower trends, support personnel functions to perform longitudinal statistical analyses, identify

current and former DoD civilian and military personnel for purposes of detecting fraud and abuse of pay and benefit programs, and to collect debts owed to the United States Government and state and local governments.

All records in this record system are subject to use in authorized computer matching programs within the Department of Defense and with other Federal agencies or non-Federal agencies as regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the Department of Veterans Affairs (DVA), Statistical Policy and Research Office, Office of Information Management and Statistics, DVA Management Sciences Division to provide military personnel employment and pay data for the purpose of selection samples for surveys asking veterans about the use of veteran benefits and satisfaction with DVA services, and to validate eligibility for DVA benefits; and to analyze the cost to the individual of military service under the Veteran's Group Life Insurance program.

To the Department of Veterans Affairs (DVA) to provide identifying military personnel data to the DVA and its contractor, the Prudential Insurance Company, for the purpose of notifying members of the Individual Ready Reserve (IRR) of their right to apply for Veteran's Group Life Insurance coverage.

To the Department of Veterans Affairs (DVA) to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of:

1. Providing full identification of active duty military personnel, including full-time National Guard/Reserve support personnel, for use in the administration of DVA's Compensation and Pension benefit program (38 U.S.C. 3104(c), 3006–3008). The information is used to determined continued eligibility for DVA disability compensation to recipients who have returned to active duty so that benefits can be adjusted or terminated as required and steps taken by DVA to collect any resulting overpayments.

2. Providing military personnel and financial data to the Veterans Benefits Administration, DVA for the purpose of determining initial eligibility and any changes in eligibility status to insure proper payment of benefits for GI Bill education and training benefits by the DVA under the Montgomery GI Bill (Title 10 U.S.C., Chapter 106—Selected Reserve and Title 38 U.S.C., Chapter 30—Active Duty). The administrative responsibilities designated to both agencies by the law require that data be exchanged in administering the programs.

3. Providing identification of reserve duty, including full-time support National Guard/Reserve military personnel, to the DVA, for the purpose of deducting reserve time served from any DVA disability compensation paid or waiver of VA benefit. The law (10 U.S.C. 684) prohibits receipt of reserve pay and DVA compensation for the same time period, however, it does permit waiver of DVA compensation to draw reserve pay.

4. Providing identification of former active duty military personnel who received separation payments to the DVA for the purpose of deducting such repayment from any DVA disability compensation paid. The law (38 U.S.C. 3104(c)) requires recoupment of severance payments before DVA disability compensation can be paid.

5. Providing identification of former military personnel and survivor's financial benefit data to DVA for the purpose of identifying military retired pay and survivor benefit payments for use in the administration of the DVA's Compensation and Pension program (38 U.S.C. 3104(c), 3006–3008). The information is to be used to process all DVA award actions more efficiently, reduce subsequent overpayment collection actions, and minimize erroneous payments.

To the Office of Personnel Management (OPM) consisting of personnel/employment/financial data for the purpose of carrying out OPM's management functions. Records disclosed concern pay, benefits, retirement deductions and any other information necessary for those management functions required by law (Pub. L. 83–598, 84–356, 86–724, 94–455 and 5 U.S.C. 1302, 2951, 3301, 3372, 4118, 8347).

To the Office of Personnel Management (OPM) to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a) for the purpose of:

1. Exchanging personnel and financial information on regular military officer retirees, who are also civilian employees of the Federal government, for the purpose of identifying those individuals subject to a limitation on the amount of military retired pay they can receive under the Dual Compensation Act (5 U.S.C. 5532), and to permit adjustments of military retired pay by the Defense Finance and Accounting Service and to take steps to recoup excess of that permitted under the dual compensation and pay cap restrictions.

2. Exchanging personnel and financial data on civil service annuitants (including disability annuitants under age 60) who are reemployed by DoD to insure that annuities of DoD reemployed annuitants are terminated where applicable, and salaries are correctly offset where applicable as required by law (5 U.S.C. 8331, 8344, 8401 and 8468).

3. Exchanging personnel and financial data to identify individuals who are improperly receiving military retired pay and credit for military service in their civil service annuities, or annuities based on the "guaranteed minimum" disability formula. The match will identify and/or prevent erroneous payments under the Civil Service Retirement Act (CSRA) 5 U.S.C. 8331 and the Federal Employees' Retirement System Act (FERSA) 5 U.S.C. 8411. DoD's legal authority for monitoring retired pay is 10 U.S.C. 1401.

4. Exchanging civil service and Reserve military personnel data to identify those individuals of the Reserve forces who are employed by the Federal government in a civilian position. The purpose of the match is to identify those particular individuals occupying critical positions as civilians and cannot be released for extended active duty in the event of mobilizaton. Employing Federal agencies are informed of the reserve status of those affected personnel so that a choice of terminating the position or the reserve assignment can be made by the individual concerned. The authority for conducting the computer match is contained in E.O. 11190, Providing for the Screening of the Ready Reserve of the Armed Services.

To the Internal Revenue Service (IRS) for the purpose of obtaining home addresses to contact Reserve component members for mobilization purposes and for tax administration. For the purpose of conducting aggregate statistical analyses on the impact of DoD personnel of actual changes in the tax laws and to conduct aggregate statistical analyses to lifestream earnings of current and former military personnel to be used in studying the comparability of civilian and military pay benefits. To aid in administration of Federal Income Tax laws and regulations, to identify non-compliance and deliquent filers.

To the Department of Health and Human Services (DHHS), Office of the Inspector General, for the purpose of identification and investigation of DoD employees and military members who may be improperly receiving funds under the Aid to Families of Dependent Children Program. To the Office of Child

Support Enforcement, DHHS, pursuant to 42 U.S.C. 653 and Pub. L. 94–505, to assist state child support offices in locating absent parents in order to establish and/or enforce child support obligations.

To the Social Security Administration (SSA), Office of Research and Statistics for the purpose of conducting statistical analyses of impact of military service and use of GI Bill benefits on long term earnings.

To the Bureau of Supplemental Security Income, SSA, to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of verifying information provided to the SSA by applicants and recipients who are retired military members of their survivors for Supplemental Security Income (SSI) benefits. By law (42 U.S.C. 1383) the SSA is required to verify eligibility factors and other relevant information provided by the SSI applicant from independent or collateral sources and obtain additional information as necessary before making SSI determinations of eligibility, payment amounts or adjustments thereto.

To the Selective Service System (SSS) for the purpose of facilitating compliance of members and former members of the Armed Forces, both active and reserve, with the provisions of the Selective Service registration regulations (50 U.S.C. App. 451 and E.O. 11623).

To DoD Civilian Contractors for the purpose of performing research on manpower problems for statistical analyses.

To the Department of Labor (DOL) to reconcile the accuracy of unemployment compensation payments made to former DoD civilian employees and military members by the states.

To Federal and Quasi-Federal agencies, territorial, state, and local governments to support personnel functions requiring data on prior military service credit for their employees or for job applications. To determine continued eligibility and help eliminate fraud and abuse in benefit programs and to collect debts and overpayments owed to these programs. To assist in the return of unclaimed property or assets escheated to states of civilian employees and military member and to provide members and former members with information and assistance regarding various benefit entitlements, such as state bonuses for veterans, etc. Information released includes name, Social Security Number, and military or civilian address of individuals. To detect fraud, waste and abuse pursuant to the authority contained in the Inspector General Act of 1978, as amended (Pub. L. 95–452) for the purpose of determining eligibility for, and/or continued compliance with, any Federal benefit program requirements.

To private consumer reporting agencies to comply with the requirements to update security clearance investigations of DoD personnel.

To Defense contractors to monitor the employment of former DoD employees and members subject to the provisions of 10 U.S.C. 2397.

To financial depository institutions to assist in locating individuals with dormant accounts in danger of reverting to state ownership by escheatment for accounts of DoD civilian employees and military members.

To any Federal, state or local agency to conduct authorized computer matching programs regulated by the Privacy Act of 1974, as amended, (5 U.S.C. 552a) for the purposes of identifying and locating delinquent debtors for collection of a claim owed the Department of Defense or the United States Government under the Debt Collection Act of 1982 (Pub. L. 97–365).

To state and local law enforcement investigative agencies to obtain criminal history information for the purpose of evaluating military service performance and security clearance procedures (10 U.S.C. 2358).

To the United States Postal Service to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purposes of:

1. Exchanging civil service and Reserve military personnel data to identify those individuals of the Reserve forces who are employed by the Federal government in a civilian position. The purpose of the match is to identify those particular individuals occupying critical positions as civilians and who cannot be released for extended active duty in the event of mobilization. The Postal Service is informed of the reserve status of those affected personnel so that a choice of terminating the position on the reserve assignment can be made by the individual concerned. The authority for conducting the computer match is contained in E.O. 11190, Providing for the Screening of the Ready Reserve of the Armed Forces.

2. Exchanging personnel and financial information on regular military officer retirees who are also civilian employees of the Federal government, for the purpose of identifying those individuals subject to a limitation on the amount of retired military pay they can receive under the Dual Compensation Act (5 U.S.C. 5532), and permit adjustments to military retired pay to be made by the Defense Finance and Accounting Service and to take steps to recoup excess of that permitted under the dual compensation and pay cap restrictions.

The Defense Logistics Agency "Blanket Routine Uses" published at the beginning of the DLA compilation of record system notices also apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Retrieved by name, Social Security Number, occupation, or any other data element contained in system.

SAFEGUARDS:

W.R. Church Computer Center—Tapes are stored in a locked cage in a controlled access area; tapes can be physically accessed only by computer center personnel and can be mounted for processing only if the appropriate security code is provided.

Back-up location—Tapes are stored in a bank-type vault; buildings are locked after hours and only properly cleared and authorized personnel have access.

RETENTION AND DISPOSAL:

Files constitute a historical data base and are permanent.

U.S. Postal Service records are temporary and are destroyed after the computer matching program results are verified.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Manpower Data Center, 99 Pacific Street, Suite 155A, Monterey, CA 93940–2453.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Deputy Director, Defense Manpower Data Center, 99 Pacific Street, Suite 155A, Monterey, CA 93940–2453.

Written requests should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license or military or other identification card.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address inquiries to the Deputy Director, Defense Manpower Data Center, 99 Pacific Street, Suite 155A, Monterey, CA 93940–2453.

Written requests should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license or military or other identification card.

CONTESTING RECORD PROCEDURES:

DLA rules for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21, "Personal Privacy and Rights of Individuals Regarding Their Personal Records"; 32 CFR part 1286; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The military services, the Department of Veterans Affairs, the Department of Education, Department of Health and Human Services, from individuals via survey questionnaires, the Department of Labor, the Office of Personnel Management, Federal and Quasi-Federal agencies, Selective Service System, and the U.S. Postal Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 91–10122 Filed 4–29–91; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

Office of Educational Research and Improvement (OERI) Reading Research Planning Agenda

ACTION: Notice to Solicit Written Public Comments on a Reading Research Agenda for the 1990's.

The Secretary is developing a reading research agenda and invites written comments on what research is still needed to improve teaching and learning in reading, content, and related areas. The Secretary is especially inerested in comments from education practitioners and researchers. The Department will use the research agenda on reading, content, and related areas to plan grant and contract competitions. The Reading Center award expires in February 1992.

DEADLINE FOR TRANSMITTAL OF COMMENTS: Comments should be received on or before May 13, 1991. All comments should be addressed to Dr. Anne P. Sweet, U.S. Department of Education, OERI, Office of Research, Room 606D, 555 New Jersey Avenue, NW., Washington, DC 20208–5648.

FOR FURTHER INFORMATION: For additional information write to Dr. Anne P. Sweet at the address above or call (202) 219–2021. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 1221e.

Dated: April 23, 1991.

Bruno V. Manno,

Acting Assistant Secretary, Educational Research and Improvement.

[FR Doc. 91–10077 Filed 4–29–91; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Financial Assistance Award; Intent to Award Grant to X-Form, Inc.

AGENCY: U.S. Department of Energy.

ACTION: Notice of unsolicited financial assistance award.

SUMMARY: The Department of Energy announces that purusant to 10 CFR 600.14(e)(1), it is making a discretionary financial assistance award based on acceptance of an unsolicited application to X–Form, Inc., under Grant Number DE–FG01–91CE15492.

The proposed grant will provide funding in the estimated amount of $89,392 for X–Form Inc., to design, construct, test, modify and operate an automatic furnace for the production of sintered intermetallic high-performance superalloy powders of nickel and aluminum. The National Institute of Standards and Techology estimates this process will save 98 percent of the energy used to produce similar alloys by standard methods. This could amount to 17,500 barrels of oil in 1995, when production is expected to reach 2,500 tons.

In accordance with 10 CFR 600.14(e)(1), it has been determined that this project represents a unique idea that is not eligible for financial assistance under a recent, current or planned solicitation. The funding program, Energy-Related Inventions Program (ERIP), has been structured since its beginning in 1975, to operate without competitive solicitations because the legislation directs ERIP to provide support for worthy ideas submitted by the public. The proposed project and technology have a strong potential of adding to the national energy resources.

The term of this grant shall be twenty-four (24) months from the effective date of award.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Placement and Administration; Attn: Ms. Joyce P. Gray, PR–322.2; 1000 Independence Avenue, SW., Washington, DC 20585.

Scott Sheffield,

Acting Director, Operations Division "B", Office of Placement and Administration.

[FR Doc. 91–10149 Filed 4–29–91; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER91–124–001, et al.]

Missouri Public Service, et al.: Electric Rate, Small Power Production, and Interlocking Directorate Filings

April 22, 1991.

Take notice that the following filings have been made with the Commission:

1. Missouri Public Service

[Docket No. ER91–124–001]

Take notice that on April 12, 1991, Missouri Public Service (Missouri) filed certain revised contract and tariff pages in conformance with the Commission's order issued on March 29, 1991 in this docket. Missouri states that the revised pages conform the existing contracts and tariffs sheets, and the proposed tariff sheets with that Commission directive.

Copies of the filing were served upon the eight Municipal-Resale customers whose rates and charges are affected by the contracts and tariffs, and upon the Public Service Commission of Missouri.

Comment date: May 8, 1991, in accordance with Standard Paragraph E at the end of this notice.

2. Oklahoma Gas and Electric Company

[Docket No. ER91–386–000]

Take notice that on April 16, 1991, Oklahoma Gas and Electric Company (OG&E) tendered for filing a Settlement Agreement with Arkansas Valley Electric Cooperative, Inc. (AVEC) under which delivery served under the Company's Rate Schedule WC–1 and guarantee no increase in base rates for a period of five years. OG&E has also filed revised electric service agreements applicable to AVEC.

Copies of the filing have been served on each cooperative to whom the Company supplies wholesale electric

service, the Oklahoma Corporation Commission and the Arkansas Public Service Commission.

Comment date: May 8, 1991, in accordance with Standard Paragraph E at the end of this notice.

3. Florida Power & Light Company

[Docket No. ER91-385-000]

Take notice that Florida Power & Light Company (FPL) on April 17, 1991, tendered for filing a document entitled Agreement to Provide Specified Delivery Services Between Florida Power & Light Company and City of Lake Worth, Florida ("Lake Worth").

FPL states that this Agreement provides for the delivery of capacity and energy from the Downtown Government Center Qualifying Facility ("DGCQF") to Lake Worth pursuant to an agreement between Lake Worth and south Florida Cogeneration Associates for the purchases of capacity and energy from the DGCQF dated April 1, 1991.

FPL requests that waiver of § 35.3 of the Commission's Regulations be granted and that the proposed Agreement be made effective June 1, 1991. FPL states that a copy of the filing was served on Lake Worth and Florida Public Service Commission.

Comment date: May 8, 1991, in accordance with Standard Paragraph E at the end of this notice.

4. Pennsylvania Power Company

[Docket No. ER91-378-000]

Take notice that on April 15, 1991 Pennsylvania Power Company (Penn Power) pursuant to 18 CFR § 35.13 tendered for filing proposed changes in its FPC Electric Service Tariffs Nos. 30, 31, 32, 33 and 34 to the Pennsylvania boroughs (Boroughs) of New Wilmington, Wampum, Zelienople, Ellwood City and Grove City, (Rider II) to the above Tariffs effective May 4, 1991. The revenue effect of this change is to decrease revenues from the municipal effect of this change is to decrease revenues from the municipal resale class by $75,666 or 1.07% for the test year ending February 28, 1991.

The five municipal resale customers served by Penn Power entered into settlement agreements effective as of September 1, 1984. These agreements provide that these customers will be charged applicable retail rates as may be in effect during the terms of the agreements. Changes in rates were agreed to become effective as to these resale customers simultaneously with changes approved by the Pennsylvania Public Utility Commission (PA. PUC). All of the proposed changes have been implemented as to Penn Power's retail customers and have been approved by the PA. PUC. These settlement agreements were approved by the Federal Energy Regulatory Commission through a Secretarial letter dated December 14, 1984 in Docket Nos. ER77-277-007 and ER81-779-000. Waivers of certain filing requirements have been requested to implement the rate changes in accordance with the settlement agreements.

Copies of the filing were served upon Penn Power's jurisdictional customers and the PA. PUC.

Comment date: May 8, 1991, in accordance with Standard Paragraph E at the end of this notice.

5. West Texas Utilities Company

[Docket No. ER91-380-000]

Take notice that on April 16, 1991 West Texas Utilities Company (WTU) tendered for filing: (1) A Transmission Service Agreement (The "Tex-La Agreement"), dated November 27, 1990, between WTU and Tex-La Electric Cooperative of Texas (Tex-La); (2) a Transmission Service Agreement (the "Rayburn Agreement"), dated February 13, 1991, between WTU and Rayburn Country Electric Cooperative (Rayburn) and (3) a revised Master ERCOT Transmission Facility Charge Rate Schedule.

Under the terms of the Tex-La Agreement, WTU will provide transmission services to Tex-La for the transfer of up to 27.5 MW of the hydroelectric capacity from the Brazos Electric Cooperative (Brazos) system to Tex-La. Under the terms of the Rayburn Agreement, WTU will provide transmission service to Rayburn for the transfer of up to 42.5 MW of capacity from the Brazos system to Rayburn. WTU will provide such transmission service at rates based on the cost of service data specified in the Master ERCOT Transmission Facility Charge Rate Schedule. The revised Master ERCOT Transmission Facility Charge Rate Schedule reflects the addition of the Tex-La Agreement to the tariffs and contracts specified in appendix A of the schedule.

WTU seeks an effective date of July 1, 1990 for the Tex-La Agreement, the Rayburn Agreement and the revised Master ERCOT Transmission Facility Charge Rate Schedule. Accordingly, WTU seeks waiver of the Commission's notice requirements. Copies of the filing were served upon Tex-La, Rayburn and the Public Utility Commission of Texas.

Comment date: May 8, 1991, in accordance with Standard Paragraph E at the end of this notice.

6. Philadelphia Electric Company

[Docket No. ER91-376-000]

Take notice that on April 16, 1991, Philadelphia Electric Company (PE) tendered for filing as an initial rate under section 205 of the Federal Power Act and part 35 of the regulations issued thereunder, a Agreement between PE and Public Service Electric and Gas Company (PS) dated April 8, 1991.

PE states that the Agreement sets froth the terms and conditions for the sale of system energy which it expects to have available for sale from time to time and the purchase of which will be economically advantageous to PS. In order to optimize the economic advantages to both PE and PS, PE requests that the Commission waive its customary notice period and allow this Agreement to become effective on April 15, 1991.

PE states that a copy of this filing has been sent to PS and will be furnished to the Pennsylvania Public Utility Commission and the New Jersey Board of Public Utilities.

Comment date: May 8, 1991, in accordance with Standard Paragraph E at the end of this notice.

7. Iowa Public Service Company

[Docket No. ER91-375-000]

Take notice that on April 12, 1991, Iowa Public Service Company tendered for filing an executed Peaking Power Interchange Service and Peaking Capacity Sales Agreement whereby Iowa Public Service Company (IPS) will provide to Iowa Power Inc. (IPS) twenty megawatts (20 MW) of peaking capacity and associated energy in accordance with MAPP Service Schedule X for the six-month period May 1, 1991 through October 31, 1991.

Comment date: May 8, 1991, in accordance with Standard Paragraph E at the end of this notice.

8. Florida Power & Light Company

[Docket No. ER91-384-000]

Take notice that on April 17, 1991, Florida Power & Light Company (FPL), tendered for filing a document entitled Amendment Number Sixteen to Revised Agreement to Provide Specified Transmission Service Between Florida Power & Light Company and the City of Vero, Florida (Rate Schedule FERC No. 58).

FPL states that under Amendment Number Sixteen FPL will transmit power and energy for City of Vero Beach, Florida as is required by the City of Vero Beach, Florida in the implementation of its interchange agreements with City of Homestead,

Kissimmee Utility Authority, Utilities Commission City of New Smyrna Beach, City of Gainesville, and City of Lake Worth.

FPL requests that waiver of § 35.3 of the Commission's Regulations be granted and that the proposed Amendment be made effective May 1, 1991. FPL states that a copy of the filing was served on the City of Vero Beach, Florida.

Comment date: May 8, 1991, in accordance with Standard Paragraph E at the end of this notice.

9. Carolina Power & Light Company

[Docket No. ER91-381-000]

Take notice that Carolina Power & Light Company (Company) on April 16, 1991 tendered for filing changes to Company's Backstand Power and Transmission rates previously filed as Exhibit No. 1 to Appendix A of the "Amendment to the Service Agreement Between the City of Fayetteville and Carolina Power & Light company" (Amendment) dated January 16, 1986. Company states that this filing is made as a result of a change in the Commission's advisory benchmark rate of return on common equity which is a component of Company's Backstand Power and Transmission rates. The changes to the rates are proposed to become effective on July 1, 1991 and are for the period July 1, 1991 through June 30, 1992.

Copies of this filing have been sent to the Fayetteville Works Commission, North Carolina Utilities Commission, and the South Carolina Public Service Commission.

Comment date: May 8, 1991, 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. 91-10089 Filed 4-29-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP91-1791-000, et al.]

Northern Natural Gas Company, et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Northern Natural Gas Company

[Docket No. CP91-1791-000]

April 19, 1991.

Take notice that on April 10, 1991, Northern Natural Gas Company (Northern Natural), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP91-1791-000, a request pursuant to section 7(b) of the Natural Gas Act and §§ 157.7 and 157.18 of the Commission's Regulations for permission and approval to abandon firm gas transportation service to Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern Natural states that on October 10, 1980, it entered into a service agreement with Natural providing for the transportation of up to 75,000 Mcf of natural gas per day under Northern Natural's T-29 Rate Schedule. Northern Natural further states that the Commission authorized such service to Natural by order issued on April 24, 1981 in Docket No. CP78-123, *et al.* Northern Natural indicates that it has reached agreement with Natural to terminate Rate Schedule T-29 effective February 1, 1991; that this service has been replaced with self-implementing firm and interruptible transportation service; and that the service provided for under Rate Schedule T-29 is no longer required.

Comment date: May 10, 1991, in accordance with Standard Paragraph F at the end of the notice.

2. Trunkline Gas Company; Tennessee Gas Pipeline Company

[Docket No. CP90-1439-000, CP91-1794-000]

April 19, 1991.

Take notice that on April 15, 1991,[1] Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251-1642 and Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket Nos. CP90-1439-000 and CP91-1794-000, respectively, a stipulation and agreement pursuant to 18 CFR 385.602 of the Commission's Regulations and an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act in purported settlement of issues arising from Trunkline's May 9, 1990, application filed in Docket No. CP90-1439-000, in which Trunkline requested a certificate of public convenience and necessity authorizing an expansion of its Bayou Sale Line in southern Louisiana, all as more fully set forth in the stipulation and agreement and application, which are on file with the Commission and open to public inspection.

It is stated that Trunkline filed an application in Docket No. CP90-1439-000 in which it requested authority to construct and operate 51.43 miles of 30-inch loop between Trunkline's existing Centerville compressor station and its Kaplan compressor station. It is further stated that the project, which was to cost approximately $47,200,000, was designed to increase the capacity of Trunkline's Bayou Sale Line from 330,000 Dekatherms per day (Dtd) to 734,000 Dtd. It is explained that the purpose of the project was to eliminate a longstanding bottleneck on Trunkline's Gulf Coast System. It is explained that in the past, Trunkline has used third-party transportation services (provided mainly by Tennessee) as a means to overcome the bottleneck.

It is stated that Tennessee and Trunkline are currently parties to a transportation agreement dated October 31, 1988, under which Tennessee (using a portion of its Muskrat-Kinder/Sabine Line) transports for Trunkline on a firm basis, up to 360,000 Dtd. It is indicated, however, that inasmuch as the facilities proposed by Trunkline in Docket No. CP90-1439-000 were designed to eliminate the need for the Tennessee transportation service, Trunkline has given Tennessee notice of its intention to terminate the transportation agreement, effective November 1, 1991.

It is noted that Tennessee filed a protest and request for hearing in Docket No. CP90-1439-000, claiming that construction of facilities would be duplicative and unnecessary and that it could provide the services in a more economically and environmentally sound manner. As a result of subsequent informal settlement discussions, Trunkline and Tennessee state that they have reached an agreement, the central element of which is an arrangement under which Trunkline would lease

[1] The application and offer of settlement were tendered for filing on April 5, 1991; however, the fee required by § 381.207 of the Commission's Rules (18 CFR 381.207) was not paid until April 15, 1991. Section 381.103 of the Commission's Rules provides that the filing date is the date on which the fee is paid.

certain pipeline facilities from Tennessee in lieu of proposing to construct an expansion of its Bayou Sale Line.

Trunkline and Tennessee state that the stipulation and agreement, which constitutes an offer of settlement, is submitted for the purpose of securing all requisite certificate, abandonment and related authorizations necessary to implement the terms of lease agreement between Trunkline and Tennessee. Specifically, approval of the settlement, as requested by Trunkline and Tennessee, would grant the following authorizations.

(1) Trunkline would acquire, by lease, firm capacity of the Btu equivalent of 400,000 Dtd in the portion of Tennessee's system identified as the Muskrat/Kinder-Sabine pipeline segment which commences at Centerville in St. Mary Parish, Louisiana, and terminates at Kinder. Tennessee would abandon, by lease, the capacity to be required by Trunkline in the pipeline.

(2) The acquisition and abandonment would be implemented pursuant to a Capacity Lease Agreement which, among other things, provides that Tennessee would lease to Trunkline capacity in the pipeline equal to the volumetric equivalent of 400,000 Dtd on a firm basis for a primary term of ten years commencing on the later of June 1, 1991, or when the Commission approves the Settlement. The capacity leased to Trunkline would revert to Tennessee upon expiration of the lease. Trunkline would make monthly payments of $775,017 for an initial three-year period. Either party could request renegotiation of the monthly lease payment for each subsequent three-year period. In the event a mutually acceptable lease payment cannot be agreed on, either party could terminate the lease.

(3) The pipeline facilities to be leased would remain the sole property of Tennessee and Tennessee would continue to maintain and operate the pipeline at its own cost and expense.

(4) Trunkline would have the right to utilize the leased capacity in the pipeline as it would if it were the fee owner of such capacity.

(5) Trunkline would have pre-granted authority to abandon the leased capacity and Tennessee would have pre-granted authority to reacquire the same capacity.

(6) Tennessee and Trunkline would terminate the existing October 31, 1988, firm transportation agreement.

(7) Both Tennessee and Trunkline would treat the Capacity Lease Agreement as an "operating lease" pursuant to the Uniform System of Accounts for natural gas companies.

(8) Trunkline would have authority under section 4 of the Natural Gas Act to utilize its generally applicable rate schedules to charge the applicable rates thereunder for all services rendered by or through its leased capacity in the pipeline.

Comment date: May 9, 1991, in accordance with Standard Paragraph F at the end of this notice.

3. El Paso Natural Gas Company; Southern Natural Gas Company

[Docket No. CP91-1848-000, CP91-1850-000]

April 19, 1991.

Take notice that El Paso Natural Gas Company, P.O. Box 1492, El Paso, Texas 79978, and Southern Natural Gas Company, P.O. Box 2563, Birmingham, Alabama 35202-2563, (Applicants) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under the blanket certificates issued in Docket No. CP88-433-000 and Docket No. CP88-316-000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[2]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

Comment date: June 3, 1991, in accordance with Standard Paragraph G at the end of this notice.

[2] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt [1] points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-1848-000 (4-16-91)	Valero Industrial Gas, L. P.	206,000 206,000 75,190,000	Various	AZ	T-1, Interruptible	ST91-7738 3-1-91.
CP91-1850-000 (4-16-91)	Texican Natural Gas Company.	15,000 6,000 2,190,000	Various	AL	IT, Interruptible	ST91-7519 2-9-91.

[1] Offshore Louisiana and offshore Texas are shown as OLA and OTX.

4. Tennessee Gas Pipeline Company; Midwestern Gas Transmission Company; Natural Gas Pipeline Company of America

[Docket Nos. CP91-1842-000, CP91-1843-000, CP91-1844-000]

April 19, 1991.

Take notice that the above referenced companies (Applicants) filed in respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.[3]

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicants and is included in the attached appendix.

The Applicants also states that each would provide the service for each shipper under an executed transportation agreement, and that the Applicants would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: June 3, 1991, in accordance with Standard Paragraph G at the end of this notice.

[3] These prior notice requests are not consolidated.

Docket No. (date filed)	Applicant	Shipper name	Peak day,[1] average, annual	Points of		Start up date, rate schedule	Related [2] dockets
				Receipt	Delivery		
CP91-1842-000 (4-16-91)	Tennessee Gas Pipeline Company, P.O. Box 2511, Houston, TX 77252.	Williams Gas Marketing Company.	100,000 100,000 36,500,000	Off LA, LA	LA, NJ, PA, TN, NY	3-6-91, IT	CP87-115-000, ST91-8008-000.
CP91-1843-000 (4-16-91)	Midwestern Gas Transmission Company, P.O. Box 2511, Houston, TX 77252.	Women's Natural Gas Corporation.	46,000 46,000 16,790,000	TN, IL, IN, KY	TN, IL, IN, KY	3-13-91, IT	CP90-174-000, ST91-8190-000.
CP91-1844-000 (4-16-91)	Natural Gas Pipeline Company of America, 701 E. 22nd St., Lombard, IL 60148.	Caspen Gas Company.	30,000 15,000 5,475,000	AR, CO, IO, IL, KS, LA, Off LA, MO, NE, NM, OK, TX, Off TX.	OK, LA, Off LA, KS, TX, Off TX, IL, MO, NM, IO, CO, NE, AR.	2-7-91, ITS	CP86-582-000, ST91-7622-000

[1] Quantities are shown in dth except CP91-1844-000, which volumes are shown in MMBtu.
[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

5. Mojave Pipeline Company

[Docket No. CP89-001-006, CP89-002-005]

April 22, 1991.

Take notice that Mojave Pipeline Company (Mojave), on April 8, 1991, tendered for filing its FERC Gas Tariff Original Volume No. 1, in compliance with 18 CFR 154.22 and the Commission's order of January 24, 1990, in Docket Nos. CP89-001-000 and CP89-002-000 (Certificate Order) all as more fully set forth in the compliance that is on file with the Commission and open to public inspection.

Mojave's filed tariff contains firm and interruptible transportation rate schedules, the general transportation terms and conditions, the form of service agreements for firm, interruptible and initial transportation service, the statement of transportation rates, and the index of shippers. The tariff also incorporates the changes to Mojave's tariff as directed by the Certificate Order, as well as changes negotiated with Mojave's customers, corrections of typographical errors, conforming changes, changes to the forms of firm and interruptible service agreements and the addition of the form of service agreements applicable to Mojave's initial service. Pursuant to 18 CFR 154.51, Mojave requests leave to file its tariff more than 60 days prior to the proposed effective date so that Mojave, its customers and lenders to the project can obtain certainty as to the terms of service prior to the pipeline's construction. Mojave proposes that its tariff become effective on the pipeline's in-servce date, and states that it will notify the Commission of the precise date at least 30 days prior to such date.

In connection with the filing of its tariff, Mojave has also submitted for the Commission's review the Transportation Service Agreements that Mojave has executed with its customers. Mojave requests that the Commission grant any necessary waivers and/or authorizations in order that the terms of the agreements may be implemented as negotiated.

Copies of this filing have been served upon all of Mojave's jurisdictional transportation customers.

Comment date: June 6, 1991, in accordance with Standard Paragraph G at the end of this notice.

6. Columbia Gas Transmission Corporation

[Docket No. CP91-1853-000, CP91-1854-000, CP91-1855-000, CP91-1856-000, CP91-1857-000]

April 22, 1991.

Take notice that Applicant filed in the respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[4]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Applicant states that each of the proposed services would be provided under an executed transportation agreement, and that Applicant would charge the rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: June 6, 1991, in accordance with Standard Paragraph G at the end of this notice.

[4] These prior notice requests are not consolidated.

[Applicant: Columbia Gas Transmission Corporation, 1700 MacCorkle Avenue, S.E. Charleston, WV 25314]

[Blanket Certificate Issued in Docket No.: CP86-240-000]

Docket No. (date filed)	Shipper name (type shipper)	Peak day,[1] average, annual	Points of		Start up date, rate schedule	Related dockets [2]
			Receipt	Delivery		
CP91-1853-000 (04-17-91)	Gulf Ohio Corporation (Marketer).	516 413 188,340	WV	OH	03-01-91, FTS	ST91-7978-000.

[Applicant: Columbia Gas Transmission Corporation, 1700 MacCorkle Avenue, S.E. Charleston, WV 25314]

[Blanket Certificate Issued in Docket No.: CP86-240-000]

Docket No. (date filed)	Shipper name (type shipper)	Peak day,[1] average, annual	Points of		Start up date, rate schedule	Related dockets [2]
			Receipt	Delivery		
CP91-1854-000 (04-17-91)	Woodward Marketing, Inc. (Marketer).	667 534 243,455	OH	OH	03-02-91, FTS	ST91-7886-000.
CP91-1855-000 (04-17-91)	Northeast Ohio Gas Marketing, Inc. (Marketer).	40,000 32,000 14,600,000	KY, OH, WV, PA, NY, MD, VA, NJ.	OH, PA, WV, MD	03-01-91, ITS	ST91-7980-000.
CP91-1856-000 (04-17-91)	Phibro Energy, Inc. (Marketer).	380,000 304,000 138,700,000	OH, KY, WV, PA	PA, VA, NJ, CT, NY, RI, MA.	03-01-91, ITS	ST91-7981-000.
CP91-1857-000 (04-17-91)	Jessop Steel Company (End-User).	1,500 1,200 547,500	KY	PA	03-01-91, FTS	ST91-7979-000.

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] If an ST docket is shown, 120-day transportation service was reported in it.

7. Trunkline Gas Company, Williams Natural Gas Company, United Gas Pipe Line Company, United Gas Pipe Line Company

[Docket No. CP91-1864-000, CP91-1869-000, CP91-1870-000, CP91-1871-000]

April 22, 1991.

Take notice that the above referenced companies (Applicants) filed in the respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.[5]

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicants and is included in the attached appendix.

The Applicants also state that it would provide the service for each shipper under an executed transportation agreement, and that the Applicant would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: June 6, 1991, in accordance with Standard Paragraph G at the end of this notice.

[5] These prior notice requests are not consolidated.

Docket No. (date filed)	Applicant	Shipper name	Peak day,[1] average, annual	Points of		Start up date, rate schedule	Related [2] dockets
				Receipt	Delivery		
CP91-1864-000 4-18-91	Trunkline Gas Company, P.O. Box 1642, Houston, TX 77251-1642.	Equitable Resources Marketing Company.	75,000 Mcf 75,000 Mcf 27,375,000 Mcf	Off. LA, IL, LA, TN, TX, Off. LA.	LA	3-22-91, PT-1	CP86-586-000, ST91-8003-000.
CP91-1869-000 4-18-91	Williams Natural Gas Company, P.O. Box 3288, Tulsa, OK 74101.	Continental Natural Gas, Inc..	40,000 Dth 40,000 Dth 14,600,000 Dth	CO, KS, MO, OK, TX, WY.	KS, OK	3-01-91, ITS-1 & ITS-2.	CP86-631-000, ST91-8002-000.
CP91-1870-000 4-18-91	United Gas Pipe Line Company, P.O. Box 1478, Houston, TX 77251-1478.	Fina Natural Gas Company.	103,000 103,000 37,595,000	LA, TX	TX	3-08-91, ITS	CP88-6-000, ST91-7862-000.
CP91-1871-000 4-18-91	United Gas Pipe Line Company, P.O. Box 1478, Houston, TX 77251-1478.	Arkla Energy Resources.	103,000 103,000 37,595,000	LA	LA	2-03-91, ITS	CP88-6-000, ST91-7130-000.

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

8. Williams Natural Gas Company

[Docket No. CP91-1849-000]

April 22, 1991.

Take notice that on April 16, 1991, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP91-1849-000 pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act, to utilize facilities originally installed for the delivery of 311 transportation gas under the authorization issued in its blanket certificate Docket No. CP82-479-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

WNG proposes to utilize the 311 facilities installed to deliver transportation gas to The Kansas Power & Light Company (KPL) for the Masters & Jackson Asphalt Plant in Jasper County, Missouri for any purpose. The

cost to construct the facilities was $30,600 which was reimbursed by KPL.

WNG states that it has sufficient capacity to accomplish the deliveries specified without detriment or disadvantage to its other customers.

Comment date: June 6, 1991, in accordance with Standard Paragraph G at the end of this notice.

9. Panhandle Eastern Pipe Line Company

[Docket No. CP91-1851-000]

April 22, 1991.

Take notice that on April 17, 1991, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP91-1851-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Gastrak Corporation, a marketer, under the blanket certificate issued in Docket No. CP86-585-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Panhandle states that, pursuant to an agreement dated December 28, 1990, under its Rate Schedule PT, it proposes to transport up to 100,000 DT per day equivalent of natural gas. Panhandle indicates that it would transport 100,000 DT on an average day and 36,500,000 DT annually. Panhandle further indicates that the gas would be transported from Colorado, and would be redelivered in Kansas.

Panhandle advises that service under § 284.223(a) commenced February 8, 1991, as reported in Docket No. ST91-8046.

Comment date: June 6, 1991, in accordance with Standard Paragraph G at the end of this notice.

10. Columbia Gulf Transmission Company

[Docket No. CP91-1876-000, CP91-1877-000]

April 22, 1991.

Take notice that on April 18, 1991, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under its blanket certificate issued in Docket No. CP86-239-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[6]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Columbia Gulf and is summarized in the attached appendix.

Comment date: June 6, 1991, in accordance with Standard Paragraph G at the end of this notice.

[6] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-1876-000 (4-18-91)	Stellar Gas Company (Marketer).	35,000 15,000 5,475,000	LA	TN, MS	12-1-90, ITS-1, Interruptible.	ST91-7998-000, 12-23-90.
CP91-1877-000 (4-18-91)	O&R Energy, Inc. (Marketer).	80,000 50,000 18,250,000	LA	LA, TN, MS	12-1-90, ITS-1, Interruptible.	ST91-7977-000, 12-23-90.

Standard Paragraphs:

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn

within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 91-10085 Filed 4-29-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-93-000]

Transcontinental Gas Pipe Line Corp.; Technical Conference

April 23, 1991.

Pursuant to the Commission's letter order, issued on March 21, 1991, a technical conference will be held to resolve the issues raised in the above-captioned proceeding. The conference will be held on Wednesday, May 1, 1991 at 2 p.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 91-10087 Filed 4-29-91; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 91-26-NG]

Natgas U.S. Inc.; Application for Blanket Authorization to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy; Department of Energy.

ACTION: Notice of application for blanket authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on April 4, 1991, of an application filed by Natgas U.S. Inc. (Natgas) for blanket authorization to import from Canada up to 730 Bcf of natural gas for a two-year term from July 1, 1991, to June 30, 1993. Natgas requests authority to import the natural gas at any point on the U.S./Canadian border where existing pipeline facilities are located. No new construction would be involved. Natgas also states it will submit quarterly reports to FE detailing each transaction.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.d.t., May 30, 1991.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Allyson C. Reilly, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-094, FE-53, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586-9394.

Lot Cooke, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E-042, GC-14, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586-0503.

SUPPLEMENTARY INFORMATION: Natgas a Delaware corporation and has its principal place of business in Calgary, Alberta, Canada, is a wholly owned subsidiary of Pan-Alberta Gas, Ltd. (Pan-Alberta), a Canadian company. Natgas is currently authorized, under DOE/ERA Opinion and Order No. 290 (1 ERA ¶70,831, December 30, 1988), to import 730 Bcf of Canadian natural gas over a two-year term which will expire June 30, 1991. Natgas is requesting an extension of its blanket authorization to allow it to import up to 730 Bcf of Canadian natural gas over a two-year term from July 1, 1991, to June 30, 1993.

Natgas proposes to continue importing Canadian natural gas either as a broker or agent on behalf of U.S. purchaser and/or Canadian suppliers, or on its own behalf for sale to U.S. purchasers. The natural gas would be supplied by Pan-Alberta or other Canadian suppliers and sold on a short-term basis to U.S. pipelines, local distribution companies, electrical utilities, and industrial or agricultural end-users. The specific terms of each import and sale would be negotiated on an individual basis including the price and volumes. Natgas would continue to file quarterly reports which provide the details of each transaction made during the quarter. To date Natgas has imported approximately 5.3 Bcf of Canadian natural gas under their existing authorization.

In support of its application, Natgas asserts that the requested extension of its existing blanket authorization under the same terms and conditions as granted in its current blanket authorization will be in the public interest.

The decision on the application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties, especially those that may oppose this application, should comment in their responses on the issue of competitiveness as set forth in the policy guidelines regarding the requested import authority. The applicant asserts that imports made under this arrangement will be competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as

necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why and oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Natgas's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 23, 1991.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 91–10150 Filed 4–29–91; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 91–23–NG]

Puget Sound Power & Light Co.; Application for Blanket Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for blanket authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on March 26, 1991, of an application filed by Puget Sound Power & Light Co. (Puget) for blanket authorization to import up to 25 Bcf of Canadian natural gas over a two-year period beginning with the date of first delivery. Puget intends to use existing facilities to import and transport the proposed gas imports and will file quarterly reports detailing each transaction.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., Eastern time, May 30, 1991.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Linda Silverman, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–094, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586–7249.

Lot Cooke, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586–6667.

SUPPLEMENTARY INFORMATION: Puget, whose principal place of business is located in Bellevue, Washington, provides retail electric utility service to the Puget Sound region of western Washington state. In this role, Puget owns and operates combustion generating facilities which use natural gas as a fuel for the generation of electricity to serve its customers. The proposed imports would be used in Puget's combustion turbine generating facilities and would be purchased from several different Canadian suppliers and transported over existing pipeline facilities. Puget intends to purchase the gas under short-term or spot agreements.

The decision on this import application will be made consistent with DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Puget asserts that the proposed import authorization will allow it to obtain the most economical fuel supply for its combustion turbine generating facilities and that the short-term nature of the imports will provide sufficient flexibility to ensure that they remain price-competitive over their term. Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received form persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there

are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR Sec. 590.316.

A copy of Puget's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 23, 1991.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 91–10151 Filed 4–29–91; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals Cases Filed During the Week of March 15 Through March 22, 1991

During the Week of March 15 through March 22, 1991, the appeals and applications for exception or other relief listed in the appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: April 24, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of March 15 through March 22, 1991]

Date	Name and location of applicant,	Case No.	Type of submission
Mar. 20, 1991	Shea & Gardner, Washington, DC	LFA–0107	Appeal of an information request denial. If granted: The February 15, 1991 Freedom of Information Request Denial issued by the Office of Richland Operations would be rescinded, and Shea & Gardner would receive access to all DOE information requested
Mar. 20, 1991	Suburban Propane/Ozona Butane Company, Inc. Hardin, KY.	RR299–1	Request for modification/rescission in the Suburban refund proceeding. If granted: The December 26, 1990 Decision and Order (Case No. RF299–41) issued to Ozona Butane Company, Inc. would be modified regarding the firm's application for refund submitted in the Suburban Propane Refund Proceeding.
Mar. 21, 1991	Gulf/North Middleton Gulf, Pearl River, NY	RR300–15	Request for modification/rescission in the Gulf refund proceeding. If granted: The September 9, 1988 Dismissal Letter (Case No. RF300–130) issued to North Middleton Gulf would be modified regarding the firm's application for refund submitted in the Gulf refund proceeding.
Mar. 22, 1991	Texaco/Larry's Texaco, Vincetown, NJ	RR321–56	Request for modification/rescission in the Texaco refund proceeding. If granted: The May 4, 1990 Decision and Order (Case No. RF321–3337 and FR321–3585) issued to Larry's Texaco would be modified regarding the firm's application for refund submitted in the Texaco refund proceeding.

REFUND APPLICATIONS RECEIVED

[Week of March 15 to March 22, 1991]

Date received	Name of refund proceeding/name of refund applicant	Case No.
6/12/89	Weavers Auto Service.	RF307–10176.
3/18/91	Back River Exxon	RF307–10175.
3/18/91	Kent & Sussex Oil Prods., Inc..	RF325–00007.
3/19/91	Mapco, Inc.	RF304–12162.
3/19/91	Ron & Ron Exxon	RF307–10177.
3/20/91	Petro Products, Inc.	RF326–00245.
3/20/91	Shirl Goetz Shell Service.	RF315–10134.
3/20/91	Karas Car Wash, Inc..	RF307–10178.
3/22/91	Defense Fuel Supply Center.	RF334–00004.
3/15/91 thru 3/22/91.	Crude oil refund applications received.	RF272–86973 thru RF272–87631.
3/15/91 thru 3/22/91.	Gulf oil refund applications received.	RF300–15978 thru RF300–16132.

REFUND APPLICATIONS RECEIVED—Continued

[Week of March 15 to March 22, 1991]

Date received	Name of refund proceeding/name of refund applicant	Case No.
3/15/91	Texaco refund, applications received.	RF321–14568. RF321–14646.

[FR Doc. 91–10153 Filed 4–29–91; 8:45 am]

BILLING CODE 6450–01–M

Cases Filed With the Office of Hearings and Appeals During the Week of March 8 Through March 15, 1991

During the Week of March 8 through March 15, 1991, the appeals and applications for exception or other relief listed in the appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purpose of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: April 24, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of March 8 through March 15, 1991]

Date	Name and location of applicant	Case No.	Type of submission
Mar. 11, 1991	City of Columbus, OH Columbus, OH	RR272-70	Request for modification/rescission in the Crude Oil refund proceeding. If granted: The January 31, 1991 Decision and Order (Case No. RC272-105 & RC272-106) issued to the City of Columbus, Ohio would be modified regarding the firm's application for refund submitted in the Crude Oil refund proceeding.
Mar. 12, 1991	Chem-Nuclear Environmental Services	LFA-0106	Appeal of an information request denial. If granted: The February 22, 1991 Freedom of Information Request Denial issued by the Oak Ridge Operations Office would be rescinded, and Chem-Nuclear Environmental Services would receive access to the proposal of Ecotek, Inc., under RFP No. JD-15520.
Mar. 14, 1991	Amoco/Indiana Indianapolis, IN	RM251-244	Request for Modification/rescission in the Amoco second stage refund proceeding. If granted: Prior Decision and Orders would be modified regarding the State of Indiana's application for refund submitted in the Amoco second stage refund proceeding.

REFUND APPLICATIONS RECEIVED

[Week of March 8 to March 15, 1991]

Date received	Name of refund proceeding/name of refund applicant	Case number
3/11/91	Burlington Northern Railroad.	RF315-10133.
3/12/91	Louisiana	RQ251-567.
3/12/91	U.S. Oil Company, Inc..	RF326-242.
3/13/91	Ayden Transit Co., Inc..	RF324-00050.
3/13/91	Acker Service Station.	RF324-00051.
3/13/91	Southland Corporation.	R324-00052.
3/15/91	Texas Internat'l Petroleum Co..	RF326-243.
3/15/91	Summit, Inc.	RF326-244.
3/15/91	Carl's Hillcrest Exxon.	RF307-10174.
3/08/91 thru 3/15/91.	Crude Oil refund applications received.	RF272-86893 thru RF272-86972.
3/08/91 thru 3/15/91.	Gulf Oil refund, applications received.	RF300-15892 thru RF300-15977.
3/08/91 thru 3/15/91.	Texaco Oil refund, applications received.	RF321-14464 thru RF321-14567.

[FR Doc. 91-10152 Filed 4-29-91; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3952-5]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments be submitted on or before May 30, 1991.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

Title: Database of Innovative Treatment Technology Vendors (EPA ICR# 1583.01). This ICR requests approval of a new collection.

Abstract: The Technology Innovation Office (TIO) of the Office of Solid Waste and Emergency Response (OSWER) is planning a voluntary and ongoing request for information from developers and vendors of new treatment technologies that address contaminated hazardous waste sites. Specifically, TIO will request information concerning technologies to treat soil, sludge, solids, sediments and ground water in situ. Widely available technologies (i.e. incineration, solidification/stabilization, and ex situ aqueous treatment) will be excluded.

The vendor survey form will collect both general company information and technology-specific data. The company information includes name, address, phone numbers, and contact names. Technology data includes technology name, developmental status, media/wastes treated, contaminants and concentration ranges treated, waste limitations, factors affecting performance, summary performance data, range of unit costs, factors impacting cost, available hardware and capacity, treatability study capabilities, permits obtained, clients and references.

TIO plans to use this information to develop an automated database which will allow technology developers to inform potential users of their capabilities. The data base will allow these potential users to assess the technologies for applicability to specific sites.

Burden Statement: The estimated public reporting burden for this collection of information is 14 hours per vendor to prepare part 1—General Information and Technology Overview, which must be completed to be included in the database. Part 2—Pilot and Full-scale Technologies, which is optional and asks for more detailed information and performance data, is estimated to require 27 hours per vendor to prepare. Subsequent annual updates to this data are estimated to require 10 hours for part 1 and 17 hours for part 2. These estimates include time to read the instructions, gather existing information, and prepare and submit the form. Vendors that receive and review the form materials but elect not to participate will each incur approximately 1½ hours of burden.

Respondents: Entities or individuals developing or commercializing new treatment technologies for contaminated site cleanup including individuals/entrepreneurs, remedial contactors, and commercial hazardous or solid waste treaters.

Estimated No. of Respondents: 500.

Estimated Total Annual Burden on Respondents: 31,310 hours.

Frequency of Collection: Annual.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to: Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223), 401 M Street SW., Washington, DC 20460.

and

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St NW., Washington, DC 20530.

Dated: April 24, 1991.

David Schwarz,

Acting Director, Regulatory Management Division.

[FR Doc. 91–10145 Filed 4–29–91; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3952–4]

Management Advisory Group to the Assistant Administrator for Water; Open Meeting

Under section (1)(a)(2) of Public Law 92–423, "The Federal Advisory Committee Act," notice is hereby given that a meeting of the Management Advisory Group (MAG) to the Assistant Administrator for Water will be held at 9 a.m. May 16, 1991 and at 8:30 a.m. May 17, 1991 at the DAV Headquarters, 807 Maine Ave, SW., Washington, DC.

The purpose of this meeting will be to seek the MAG's advice and comments on issues pertaining to water quality and water resource protection. The agenda includes discussion of how to understand and implement ecological protection programs, and address the problems of combined sewer overflows and nonpoint sources.

The meeting will be open to the public. The MAG encourages the hearing of outside statements and will allocate a portion of its meeting time for public participation. Oral statements will be limited to ten minutes. It is preferred that there be one presenter for each statement. Any outside parties interested in presenting an oral statement should petition the MAG by telephone at (202) 382–3881. The petition should include the topic of the proposed statement and the petitioner's telephone number and should be received by the MAG before May 13, 1991.

Any person who wishes to file a written statement can do so before or after a MAG meeting. Written statements received prior to the meeting will be distributed to the members before any final discussion or vote is completed. Statements received after a meeting will become part of the permanent meeting file and will be forwarded to the MAG members for their information.

Any member of the public wishing to attend the MAG meeting, present an oral statement, or submit a written statement, should contact Ms. Michelle Hiller, Designated Federal Official, U.S. Environmental Protection Agency, Office of the Assistant Administrator, 401 M Street, SW., WH–556, Washington, DC 20460, or at (202) 382–3881.

Dated: April 19, 1991.

Robert Pavlik,

Director, Policy and Resources Management Office.

[FR Doc. 91–10146 Filed 4–29–91; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3952–6]

Science Advisory Board, Drinking Water Committee, Open Meeting—May 9–10, 1991

Under Public Law 92–463, notice is hereby given that a meeting of the Drinking Water Committee of the Science Advisory Board will be held on May 9–10, 1991 at the USEPA Environmental Research Center, 26 W. Martin Luther King Drive, Cincinnati, Ohio 45219. This meeting will start at 8:30 a.m. on May 9 will adjourn no later than 1 p.m. on May 10, 1991.

Due to recently resolved scheduling conflicts, publication of this notice has had to be made on an emergency basis.

The main purpose of this meeting will be to review the Agency's research program in the area of Corrosion and Corrosion By-Products in drinking water.

Any member of the public wishing to make a presentation at the meeting should forward a written statement to Dr. C. Richard Cothern, Executive Secretary, Science Advisory Board (A–101F), U.S. Environmental Protection Agency, Washington, DC 20460 by April 26, 1991. The Science Advisory Board expects that the public statements presented at its meetings will not be repetitive of previously submitted written statements. In general, each individual or group making an oral presentation will be limited to a total of ten minutes.

Dated: April 25, 1991.

Donald G. Barnes,

Director, Science Advisory Board.

[FR Doc. 91–10269 Filed 4–29–91; 12:00 pm]

BILLING CODE 6560–50–M

[FRL–3951–7]

Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability ACT; Try-Chem Site

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing to enter into a cost recovery settlement agreement under section 122(h)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA). This proposed settlement is intended to resolve the liability of over 50 parties for response costs incurred at the Try-Chem Site in Milwaukee, Wisconsin. Section 122(i) of CERCLA requires that notice of proposed settlements under section 122(h) of CERCLA be public in the **Federal Register**. This notice seeks to elicit public comments to the Try-Chem Site Cost Recovery Settlement Agreement pursuant to section 122(i) of CERCLA.

DATES: Comments must be received on or before May 30, 1991.

ADDRESSES: Comments should be addressed to Steven Siegel, Assistant Regional Counsel (5CS–TUB–3), U.S. Environmental Protection Agency, region V, 230 South Dearborn Street, Chicago, Illinois, 60604, and should refer to: Try-Chem Site in Milwaukee, Wisconsin.

FOR FURTHER INFORMATION CONTACT: Steven M. Siegel, U.S. Environmental Protection Agency, Office of Regional Counsel, 5CS–TUB–3, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 353–1129.

SUPPLEMENTARY INFORMATION: In accordance with section 122(i)(1) of the CERCLA, notice is hereby given of a proposed administrative cost recovery settlement concerning the Try-Chem site located at 1333 W. Pierce Street in Milwaukee, Wisconsin. The settlement resolves an EPA claim under section 107 of CERCLA against over 50 companies. The settlement requires the settling parties to pay $287,810.59 to the Hazardous Substances Superfund. This agreement was signed by EPA Region V on April 19, 1991. EPA may withdraw its consent if comments received disclose facts or considerations which indicate that the agreement is inappropriate, improper or inadequate.

EPA is entering into this agreement under the authority of section 122(h)(1) of CERCLA. Section 122(h)(1) authorizes compromise and settlement of a claim under section 107 of CERCLA for costs incurred by the United States Government if the claim has not been referred to the Department of Justice for further action. Under this authority, the agreement allows the Settling Parties to reimburse EPA for past response costs at the Try-Chem Site.

For thirty (30) days following the date of publication of this notice, the EPA

will receive written comments relating to the settlement. The Agency's response to comments received will be available for public inspection at the Office of Regional Counsel (5CS–TUB–3), U.S. Environmental Protection Agency, region V, 230 South Dearborn Street, Chicago, Illinois 60604, and at the Milwaukee Public Library, 814 W. Wisconsin Avenue, Milwaukee, Wisconsin 53233.

A copy of the proposed administrative settlement agreement may be obtained in person or by mail from the EPA's Region V Office of Regional Counsel. Requests for copies should be addressed to Steven Siegel, Mail Code: 5CS–TUB–3, 230 South Dearborn Street, Chicago, Illinois 60604. The Office of Regional Counsel is currently located on the third floor at 111 West Jackson, Chicago, Illinois 60604. A copy of the proposed administrative settlement agreement will also be available for inspection at the Milwaukee Public Library, 814 W. Wisconsin Avenue, Milwaukee, Wisconsin, 53233. Additional background information relating to the settlement is available for review at the EPA's Region V Office of Regional Counsel.

Authority: Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. section 9601 *et seq.*

Robert Springer,

Acting Regional Administrator.

[FR Doc. 91–10270 Filed 4–29–91; 8:45 am]

BILLING CODE 6560–50–M

Ohio Environmental Protection Agency Water Quality Standards

AGENCY: Environmental Protection Agency.

ACTION: Determination of deficiency in State water quality standards.

SUMMARY: Pursuant to section 303 of the Clean Water Act (the Act) and Federal Regulations at 40 CFR part 131, all States must adopt water quality standards which serve as the basis for setting pollution control requirements in surface waters of the State. Water quality standards consist of designated uses and in-stream criteria which protect those designated uses.

In a letter dated February 12, 1991, Mr. Valdas V. Adamkus, Regional Administrator, Region V, United States Environmental Protection Agency (USEPA), rescinded approval of Ohio Administrative Code (OAC) 3745–1–26, specific to the Cuyahoga River Shipping Channel (Channel). This action was taken because there is no designated use on, and standards are reserved from, the Channel, which is inconsistent with sections 101(a)(2) and 303(c) of the Act and Federal Regulations at 40 CFR 131.10. The Ohio Environmental Protection Agency (OEPA) must remove the statement, "The standards for this stream segment are reserved until a field assessment is performed" from Ohio Administrative Code at OAC 3745–1–26 and designate at least the warmwater habitat use, which is the minimum Ohio use designation consistent with section 101(a)(2) of the Act, or provide a use attainability analysis and designate at least the limited resource water use, which is the minimum of all Ohio uses. If OEPA fails to correct this deficiency by September 30, 1991, USEPA intends to exercise its authority under section 303(c)(4)(B) of the Act and Federal Regulations at 40 CFR 131.22(b) to promulgate acceptable water quality standards for the Channel.

Within 30 days of the date of this **Federal Register** Notice, interested parties may submit written comments regarding today's action at the address given below, and may request that a public hearing be held. Requests for a public hearing should be in writing and should state the nature of the issues proposed to be raised in the hearing.

FOR FURTHER INFORMATION CONTACT: David Allen, Standards Unit (5WQS–TUB8), USEPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6696.

SUPPLEMENTARY INFORMATION: States are required under Federal Regulations at 40 CFR 131.20 to hold public hearings, at least every 3 years, to review and revise their water quality standards. USEPA is obligated under 40 CFR 131.21 to review and approve or disapprove water quality standards revisions adopted and submitted by States. USEPA is also obligated under 30 CFR 131.22 to propose and promulgate standards to remedy defects in State water quality standards when States fail to make necessary changes on their own accord. A fundamental defect arises in the first instance when State water quality standards fail to address any particular water body with any water quality standards whatsoever. This is the case with the Channel covered by this notice.

On February 14, 1978, Ohio water quality standards at OAC 3745–1–13 for the Cuyahoga River became effective which stated, "Water quality standards for the lower Cuyahoga River will remain the same as regulation 3745–1–09 adopted December 10, 1974, or any subsequent revisions." However, the December 10, 1974 regulation was actually EP–1–09, which had been rescinded, and no subsequent revisions to this regulation had been made. As a result, the February 14, 1978 reference in OAC 3745–1–13, as establishing the applicable water quality standards, was erroneous, and the earlier rescission of EAP–1–09 means that there have been no water quality standards for the lower Cuyahoga River since February 14, 1978. In a letter dated August 13, 1980, Ernest K. Rotering, Chief, Office of Wastewater Pollution Control, OEPA, identified and informed USEPA Region V of this problem and agreed to adopt water quality standards for the Channel. In a subsequent letter dated March 25, 1981, Mr. Rotering indicated that adoption of water quality standards for the Channel would be delayed until a full scale examination of stream uses and criteria could be completed and no schedule was established.

On April 4, 1985, August 19, 1985, and July 28, 1986, Ohio adopted water quality standards at OAC 3745–1–26 for the Cuyahoga River that specifically recognized the result created by revision of EP–1–09 and OAC 3745–1–13 which stated, "The standards for this stream segment are reserved until a field assessment is performed." In letters dated June 12, 1989, and August 28, 1989, Charles H. Sutfin, Director, Water Division, Region V, USEPA, warned OEPA that USEPA intended to disapprove the reservation in the Ohio standards for the Channel and initiate Federal promulgation proceedings if OEPA did not commit to promulgation of appropriate water quality standards for the Channel by September 30, 1991. In a letter dated December 7, 1990, Gary L. Martin, Chief, Division of Water Quality Planning and Assessment, OEPA, indicated that OEPA would not comply with the September 30, 1991 date. Subsequently, the Regional Administrator for Region V formally disapproved Ohio water qualtity standards for the Channel, pursuant to section 303 of the Act and Federal Regulations at 40 CFR 131.

Ralph Bauer,

Acting Regional Administrator.

[FR Doc. 91–10147 Filed 4–29–91; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL RESERVE SYSTEM

The Dai-Ichi Kangyo Bank, Limited; Tokyo, Japan; Application to Act as an Intermediary, Principal, and Broker in Interest Rate and Currency Swaps, and Provide Related Advisory Services

The Dai-Ichi Kangyo Bank, Limited, Tokyo, Japan ("Dai-Ichi"), has applied

pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8))("BHC Act") and section 225.23(a) of the Board's Regulation Y (12 CFR 225.23(a)), to engage through its wholly owned subsidiary, DKB Credit Corporation, New York, New York ("Company"), in the following activities:

(1) Intermediating in the international swap markets by acting as an originator and principal in interest rate swap and currency swap transactions;

(2) Acting as an originator and principal with respect to certain risk-management products such as caps, floors and collars, as well as options on swaps, caps, floors and collars ("swap derivative products");

(3) Acting as a broker or agent with respect to the foregoing transactions and instruments; and

(4) Acting as adviser to institutional customers regarding financial strategies involving interest rate and currency swaps and swap derivative products.

These activities would be conducted domestically and internationally.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board, after due notice and opportunity for hearing, has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." Dai-Ichi believes that these proposed activities are "so closely related to banking or managing or controlling banks as to be a proper incident thereto."

The Board has previously approved intermediating in the international swap markets by acting as an originator and principal in interest rate swap and currency swap transactions, acting as an originator and principal with respect to swap derivative products, acting as a broker or agent with respect to the foregoing transactions and instruments, and acting as an advisor to institutional customers regarding financial strategies involving the foregoing transactions and instruments. *See, e.g.* April 20, 1991, *The Fuji Bank, Limited*, 76 Federal Reserve Bulletin 768 (1990); *The Sumitomo Bank, Limited*, 75 Federal Reserve Bulletin 582 (1989). Dai-Ichi proposes that Company comply with substantially all of the prudential limitations previously relied upon by the Board in approving these activities. *See id.*

Dai-Ichi states that the proposed activities will benefit the public. It believes that its ability to engage in these activities will promote competition in the market for these services and provide added convenience to customers and gains in efficiency. Dai-Ichi takes the position that Company's entry into the swap market will add a significant amount of additional capital to the swap market as a whole. Moreover, Dai-Ichi believes that the proposed activities will not result in any unsound banking practices.

In publishing the proposal for comment, the Board does not take any position on issues raised by the proposal under the BHC Act. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets or is likely to meet the standards of the BHC Act.

Any comments or requests for a hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than May 28, 1991. Any request for a hearing on this application must, as required by section 262.3(e) of the Board's Rules of Procedure (12 C.F.R. 262.3(e)), be accompanied by a statement of 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 proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of San Francisco.

Board of Governors of the Federal Reserve System, April 23, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR DOC. 91-10107 Filed 4-29-91; 8:45 am]

BILLING CODE 6210-01-F

Dauphin Deposit Corporation; Harrisburg, Pennsylvania; Application to Acquire a Broker-Dealer, and Thereby Underwrite and Deal in All Types of Securities, Engage in Other Securities Related Activities And Engage in Other Nonbanking Activities

Dauphin Deposit Corporation, Harrisburg, Pennsylvania("Applicant"), has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (the "BHC Act"), and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), for approval to acquire ownership of Hopper, Soliday & Co., Inc., Lancaster, Pennsylvania ("Company"), and thereby engage, through Company, in the following activities:

(1) underwriting and dealing in securities that state member banks are permitted to underwrite and deal in under section 16 of the Banking Act of 1933, 12 U.S.C. 24 (Seventh), (the "Glass-Steagall Act"), (hereinafter "bank eligible securities"), as permitted by § 225.25(b)(16) of Regulation Y, 12 CFR 225.25(b)(16);

(2) underwriting and dealing in, on a limited basis, all other types of debt securities, including without limitation, municipal revenue bonds, mortgage related securities, consumer receivable related securities, commercial paper, sovereign debt securities, corporate debt, debt securities convertible into equity securities, and securities issued by a trust or other vehicle secured by or representing interests in debt obligations ("bank-ineligible debt securities");

(3) underwriting and dealing in, on a limited basis, equity securities, including without limitation, common stock, preferred stock, American Depositary Receipts, options, limited partnership units, warrants, and securities issued by closed-end investment companies but not securities issued by open-end investment companies ("bank-ineligible equity securities");

(4) acting as agent in the private placement of all types of securities, including providing related advisory services, and buying and selling securities on the order of investors as a "riskless" principal;

(5) providing "full-service brokerage" (i.e., investment advisory and brokerage services separately and on a combined basis) to both institutional and retail customers;

(6) providing financial advice to state and local governments, including advice with respect to the issuance of their securities, pursuant to § 225.25(b)(4)(v) of Regulation Y, 12 CFR 225.25(b)(4)(v); and

(7) providing advice in connection with merger, acquisition, divestiture, recapitalization and financing transactions, including feasibility studies and structuring and arranging loan syndications, for financial and non-financial institutions; valuations for financial and non-financial institutions; and fairness opinions in connection with merger, acquisition and similar transactions for financial

and non-financial institutions (collectively, "financial advisory services").

Applicant proposes to engage in these activities on a nation-wide basis.

Applicant contends that the Board has previously determined that these activities are closely related to banking under section 4(c)(8) of the BHC Act. *J.P. Morgan & Co. Incorporated, The Chase Manhattan Corporation, Bankers Trust New York Corporation, Citicorp, and Security Pacific*, 75 Federal Reserve Bulletin 192 (1990) ("*J.P. Morgan et al.*") (underwriting and dealing in debt and equity securities); *Banc One Corporation*, 76 Federal Reserve Bulletin 756 (1990) (financial advisory activities); *The Sanwa Bank, Limited*, 77 Federal Reserve Bulletin 64 (privately placing securities and acting as a riskless principal); *Creditanstalt-Bankverein*, 76 Federal Reserve Bulletin 761 (1990) (full-service brokerage), and 12 CFR 225.25(b)(4), (b)(15), and (b)(16) (providing investment advice, offering securities brokerage, and underwriting and dealing in bank-eligible securities).

The Board has previously determined that underwriting and dealing in debt and equity securities is closely related to banking. *See J.P. Morgan et al.* Applicant proposes to conduct these underwriting and dealing activities in accordance with the framework established in *J.P. Morgan et al.* with the following exception. Specifically, Applicant has requested that the Board permit Company to calculate its compliance with the 10 percent revenue limitation in a different manner than that approved by the Board in *J.P. Morgan et al.* During the first year of Company's operations, Applicant proposes that the Board permit Company to calculate compliance with the revenue limitation on an annualized basis, as opposed to a quarterly basis. Thus, Applicant has committed that Company's revenues from underwriting and dealing in bank-ineligible debt and equity securities would not exceed 10 percent of gross revenues for the first year. Thereafter, Company would monitor compliance with the revenue limitation in accordance with *J.P. Morgan et al.* Applicant has requested this modification in order to accommodate outstanding commitments at the time Applicant acquires Company, and to continue to develop underwriting opportunities during the first two quarters of operations.

Applicant proposes that Company act as riskless principal on behalf of its customers. In its orders approving this activity, the Board has not permitted a bank holding company to (i) hold itself out as making a market in the securities that it buys and sells as riskless principal, and (ii) enter quotes for specific securities in the NASDAQ or any other dealer quotation system in connection with riskless principal transactions. *Bankers Trust New York Corporation*, 75 Federal Reserve Bulletin 829 (1989).

Applicant has requested that the Board interpret the commitment so that Company may enter (i) bid *or* ask quotations only; or (ii) publish "offering wanting" *or* "bid wanted" on trading systems other than an exchange or the National Association of Securities Dealers Automated Quotation system ("NASDAQ"). Applicant contends that because Company would not enter "two-sided" quotations with respect to a security, it should not be deemed to be making a market in the security or be engaged in the public sale of securities for purposes of the Glass-Steagall Act. In support of its contention, Applicant relies on the Securities Exchange Act of 1934, as amended, which defines a market-maker to be ". . . any dealer who, with respect to a security, holds himself out (by entering quotations in an inter-dealer communication system or otherwise) as being willing to buy *and* sell such security for his own account on a regular and continuous basis." 15 U.S.C. 78c(a)(38) (emphasis added).

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with prior Board approval, engage directly or indirectly in any activities "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." A particular activity may be found to meet the "closely related to banking" test if it is demonstrated that banks have generally provided the proposed activity; that banks generally provide services that are operationally or functionally so similar to the proposed activity so as to equip them particularly well to provide the proposed activity; or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. *National Courier Ass'n v. Board of Governors*, 516 F.2d 1229, 1337 (DC Cir. 1975). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement Regarding Regulation Y, 49 *Federal Register* 806 (1984).

In determining whether an activity meets the second, or proper incident to banking, test of section 4(c)(8), the Board must consider whether the performance of the activity by an affiliate of a holding company "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."

Applicant asserts that approval of the application would result in public benefits in the form of greater efficiency and that its customers would receive a broader range of services. Applicant further contends that approval would not decrease competition because Applicant and Hopper Soliday do not currently compete. Finally, Applicant maintains that approval would not result in significant adverse effects because Company would operate in substantial compliance with the Board's prior orders.

Applicant contends that approval of the application would not be barred by section 20 of the Glass-Steagall Act (12 U.S.C. 377). Section 20 of the Glass-Steagall Act prohibits the affiliation of a member bank with a firm that is "engaged principally" in the "underwriting, public sale or distribution" of securities. With regard to the proposed ineligible securities underwriting and dealing activities, Applicant states that, consistent with section 20, it would not be "engaged principally" in such activities on the basis of the restriction on the amount of the proposed activity relative to the total business conducted by the underwriting subsidiary previously approved by the Board. *See* Board's Order dated September 21, 1989, 75 Federal Reserve Bulletin 751 (1989).

In publishing the proposal for comment, the Board does not take any position on issues raised by the proposal under the BHC Act. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets or is likely to meet the standards of the BHC Act.

Any views or requests for a hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than May 21, 1991. Any request for a hearing must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of why a written presentation would not suffice in

lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented in a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Philadelphia.

Board of Governors of the Federal Reserve System, April 24, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR DOC. 91-10108 Filed 4-29-91; 8:45 am]

BILLING CODE 6210-01-F

The Industrial Bank of Japan, Limited, Tokyo, Japan; Application to Underwrite and Deal in Certain Securities to a Limited Extent; Conduct Private Placements of All Types of Securities As Agent; and Act as "Riskless Principal"

The Industrial Bank of Japan, Limited, Tokyo, Japan ("Applicant"), has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (the "BHC Act") and § 225.23(a) of the Board's Regulation Y (12 CFR 225.23(a)), through its wholly owned subsidiary, IBJ Securities (USA) Inc., New York, New York ("Company"), to engage *de novo* in the following activities:

(1) Underwriting and dealing in United States and Canadian government obligations and money market instruments, including, without limitation, certificates of deposit and bankers acceptances (collectively, "bank-eligible securities") pursuant to § 225.25(b)(16) of the Board's Regulation Y (12 CFR 225.25(b)(16));

(2) Underwriting and dealing, to a limited extent, in commercial paper, municipal revenue bonds (including industrial development bonds that are limited to "public ownership" industrial development bonds, where the issuer or the governmental unit on behalf of which the bonds are issued is the sole owner of the financed facility), 1-4 family mortgage-related securities, and consumer receivable-related securities (collectively, "ineligible securities");

(3) Acting as agent in the private placement of all types of securities, including providing related advisory services; and

(4) Buying and selling all types of securities on the order of customers as a "riskless principal."

Company would conduct the proposed activities on a domestic and international basis.

Applicant also proposes to engage through Company, as an incident to the underwriting activities described above, in hedging its positions by engaging in forward, futures, options, and options on futures contracts. These hedging activities would be conducted in a manner consistent with the *Statement of Policy* in § 225.142 of the Board's Regulation Y (12 CFR 225.142).

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." 12 U.S.C. 1843(c)(8).

A particular activity may be found to meet the "closely related to banking" test if it is demonstrated that banks have generally provided the proposed activity; that banks generally provide services that are operationally or functionally so similar to the proposed activity so as to equip them particularly well to provide the proposed activity; or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. *National Courier Ass'n* v. *Board of Governors*, 516 F.2d 1229, 1337 (DC Cir. 1975). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement Regarding Regulation Y, 49 *Federal Register* 806 (1984).

In determining whether an activity meets the second, or proper incident to banking, test of section 4(c)(8), the Board must consider whether the performance of the activity by an affiliate of a holding company "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." 12 U.S.C. 1843(c)(8).

The Board has previously approved the proposed underwriting and dealing, to a limited extent, in ineligible securities. *See, e.g., Citicorp, J.P. Morgan & Co. Incorporated and Bankers Trust New York Corporation*, 73 Federal Reserve Bulletin 473 (1987); and *Chemical New York Corporation, The Chase Manhattan Corporation, Bankers Trust New York Corporation, Citicorp, Manufacturers Hanover Corporation, and Security Pacific Corporation*, 73 Federal Reserve Bulletin 731 (1987), *as modified by Order Approving Modifications to Section 20 Orders* (Order dated September 21, 1989). *See also The Sanwa Bank, Limited*, 76 Federal Reserve Bulletin 568 (1990); *The Dai-Ichi Kangyo Bank, Limited*, 77 Federal Reserve Bulletin 184 (1991). Applicant has committed to comply with substantially all of the limitations and conditions set forth in the Board's orders approving these activities. The Board also has approved acting as agent in the private placement of all types of securities, and Applicant has committed to comply with the substantially all of the limitations and conditions set forth in the Board's orders, as modified for foreign banking organizations. *See, e.g., J.P. Morgan & Company Incorporated*, 76 Federal Reserve Bulletin 26 (1990) ("*J.P. Morgan*"); *The Toronto Dominion Bank*, 76 Federal Reserve Bulletin 573 (1990) ("*Toronto Dominion*"); *The Sanwa Bank, Limited*, 76 Federal Reserve Bulletin 568 (1990). In addition, the Board has previously approved the proposed buying and selling of all types of securities on the order of investors as "riskless principal." *See, e.g., J.P. Morgan; Bankers Trust New York Corporation*, 75 Federal Reserve Bulletin 829 (1989). Applicant commits that Company will conduct this proposed activity using substantially the same methods and procedures established by the Board in these orders.

Applicant proposes to have one officer of its New York branch act as an officer and director of Company. The Board has not previously approved such an interlock.

Applicant states that the proposed activities will benefit the public by promoting competition and providing added convenience to customers and gains in efficiency. In addition, Applicant believes that the proposed activities will not result in any unsound banking practices.

Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets or is likely to meet the standards of the BHC Act. Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than May 24, 1991. Any request for a hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of 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 proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, April 24, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR DOC. 91-10109 Filed 4-29-91; 8:45 am]

BILLING CODE 6210-01-F

National Penn Bancshares, Inc., 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 May 20, 1991.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. National Penn Bancshares, Inc., Boyertown, Pennsylvania; to acquire 100 percent of the voting shares of Sellersville Savings Bank, Perkasie, Pennsylvania, a *de novo* stock savings bank. Sellersville Savings Bank is being converted from Applicant's current thrift, Sellersville Savings and Loan Association.

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

1. Alliance Financial Corporation, Three Oaks, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of Alliance Bank and Trust Company, New Buffalo, Michigan, a *de novo* bank.

2. First Merchants Corporation, Muncie, Indiana; to acquire 100 percent of the voting shares of First United Bancorp, Inc., Middletown, Indiana, and thereby indirectly acquire First United Bank, Middletown, Indiana.

3. Monona Bankshares, Inc., Monona, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of Monona State Bank, Monona, Wisconsin, a *de novo* bank.

Board of Governors of the Federal Reserve System, April 24, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-10110 Filed 4-29-91; 8:45 am]

BILLING CODE 6210-01-F

Northern States Financial Corporation; Acquisition of Company Engaged in Permissible Nonbanking Activities

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

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 20, 1991.

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

1. Northern States Financial Corporation, Waukegan, Illinois; to acquire First Federal Bank, FSB, a Federal Savings Bank, Waukegan, Illinois, and thereby engage in operating a savings association pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 24, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-10123 Filed 4-29-91; 8:45 am]

BILLING CODE 6210-01-F

West Bancorporation, Inc.; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound

banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 20, 1991.

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

1. West Bancorporation, West Des Moines, Iowa; to engage *de novo* in lending activities limited to the retention of a vendor's interest in a real estate contract valued at $352,000 pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 24, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-10111 Filed 4-29-91; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

[Dkt. C-3328]

Asics Tiger Corporation; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a California manufacturer of athletic shoes from making performance and injury-reduction claims about its athletic shoes unless it possesses competent and reliable evidence to substantiate those claims.

DATES: Complaint and Order issued April 17, 1991.[1]

FOR FURTHER INFORMATION CONTACT: Janet Evans, FTC/S-4002, Washington, DC 20580. (202) 326-3088.

SUPPLEMENTARY INFORMATION: On Tuesday, February 5, 1991, there was published in the **Federal Register**, 56 FR 4626, a proposed consent agreement with analysis In the Matter of Asics Tiger Corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 91-10136 Filed 4-29-91; 8:45 am]

BILLING CODE 6750-01-M

[Dkt. 9233]

Harold Honickman, et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violatons of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, a major Pepsi bottler for the New York metropolitan area and his beverage corporation, for a ten year period, to seek prior Commission approval before making certain soft drink acquisitions in the New York metropolitan area; or else hold the newly acquired assets separate and apart from ongoing bottling operations. However, the addendum to the agreement would allow Mr. Honickman to distribute and sell the products of Seven-Up Brooklyn to another bottler for a limited time period.

DATE: Comments must be received on or before (July 1, 1991.)

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Ronald B. Rowe, FTC/H-374, Washington, DC 20580, (202) 326-2610.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order

The agreement herein, by and between Harold A. Honickman, individually, and Brooklyn Beverage Acquisition Corporation, a corporation (hereinafter sometimes referred to as "respondents"), by their duly authorized officers and their attorneys, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Horald A. Honickman is an individual with a place of residence at 66 Bayview Drive, Loveladies, New Jersey 08008, whose address for purposes of this order is c/o Peter E. Greene, Skadden, Arps, Slate, Meagher & Flom, 919 Third Avenue, New York New York 10022.

2. Brooklyn Beverage Acquisition Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania with its principal place of business located at 1500 The Fidelity Building, Philadelphia, Pennsylvania 19109.

3. Harold A. Honickman is an officer of Brooklyn Beverage Acquisition Corporation. He formulates, directs and controls the policies, acts and practices of said corporation.

4. Respondents have been served with a copy of the compliant issued by the Federal Trade Commission charging them with violation of section 5 of the Federal Trade Commission Act, as amended, and section 7 of the Clayton Act, as amended, and have filed answers to said compliant denying most of said charges.

5. Respondents admit all the jurisdictional facts set forth in the Commission's compliant in this proceedings.

6. Respondents waive:

A. Any further procedural steps;

B. The requirement that the Commission's decision contain a statement of findings of fact and conclusion of law;

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

C. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

D. Any claim under the Equal Access to Justice Act.

7. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If the agreement is accepted by the Commission, it will be placed on the public record for a period of sixty (60) days and information with respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondents, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the preceeding.

8. This agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in the said copy of the complaint issued by the Commission.

9. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's Rules, the Commission may without further notice to respondents, (1) issue its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public with respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to-order to respondents' addresses as stated in this agreement shall constitute service. Respondents waive any right they might have to any other manner of service. The compliant may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or to contradict the terms of the order.

10. Respondents have read the complaint and the order contemplated hereby. They understand that once the order has become final, they will be required to file one or more compliance reports showing that they have fully complied with the order. Respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered that for purposes of this order, the following definitions shall apply:

A. *Honickman* means Harold A. Honickman, individually, and all entities controlled by Honickman, including but not limited to, Brooklyn Beverage Acquisition Corporation, their predecessors, subsidiaries, divisions, groups and affiliates controlled by Honickman, and their respective directors, officers, employees, agents, representatives, successors and assigns.

B. *BBAC* means Brooklyn Beverage Acquisition Corporation, its predecessors, subsidiaries, divisions, groups and affiliates controlled by BBAC, and their respective directors, officers, employees, agents, representatives, successors and assigns.

C. *Commission* means the Federal Trade Commission.

D. *Person* means any natural person or any corporate entity, partnership, association, joint venture, governmental entity, trust or other organization or entity.

E. *CSDs* means carbonated soft drinks that are produced by adding carbonated water to a syrup consisting of a concentrate flavoring and a sweetener and are classified under the four-digit Standard Industrial Classification industry code 2086. For purposes of this order, CSDs shall not include non-carbonated products, carbonated or still water, iced tea, lemonade, products containing in finished form more than ten (10) percent fruit juice, or isotonic or sport drinks.

F. *Bottling Operation* means any business, person, or other entity that distributes and sells CSDs directly using company-owned or equity distribution to supermarkets pursuant to a franchise, license, distribution contract, or other similar agreement; provided, however, a Bottling Operation shall not include any business, person or other entity that distributes and sells CSDs only by warehouse delivery or through a beer distributor that does not hold a CSD franchise, license or similar distribution agreement.

G. *Warehouse delivery* means the distribution and sales of soft drinks by any business, person or entity other than a Bottling Operation.

H. *Existing Honickman Bottling Operation* means all or any part of the stock, share capital, equity interest or assets of any Bottling Operation owned or controlled by Honickman.

I. *New York Metropolitan Area* means, for purposes of this order, the counties of Westchester, New York, Bronx, Richmond (Staten Island), Kings (Brooklyn), Queens, Nassau, Suffolk, Rockland, Orange, Putnam and Dutchess in the State of New York; and Bergen, Hudson, Passaic, Essex, Union, Morris, Somerset and Sussex in the State of New Jersey.

J. *Equity distributor* means an independent contractor that distributes and sells CSDs on behalf of a Bottling Operation in a specified geographic territory that is within the exclusive licensed territory of that Bottling Operation for such CSD.

II

It is further ordered that for a period of ten (10) years after the date this order becomes final, respondents shall not, without the prior approval of the Commission, acquire directly or indirectly all or any part of the stock of, share capital of, equity interest in, assets of or rights related to any Bottling Operation in any county in the New York Metropolitan Area where at the time of such acquisition any Existing Honickman Bottling Operation distributes CSDs directly using company-owned or equity distributors to supermarkets; provided, however, that such prior approval shall not be required if respondents satisfy the conditions set forth Paragraph III of this order; and provided further that nothing contained in the foregoing provisions shall prohibit respondents from (i) acquiring stock or share capital for investment purposes only that does not exceed five (5) percent of the outstanding stock or share capital of any Bottling Operation, (ii) acquiring rights to equity territories ("equity distributor routes") for any territory in which Honickman holds the right to bottle or distribute CSDs distributed through such equity distributor rights, (iii) acquiring production or distribution equipment, or (iv) acquiring business supplies or raw materials in the ordinary course of business.

III

It is further ordered that:

A. Prior approval of the Commission under Paragraph II of this order shall not be required if respondents satisfy the conditions of this Paragraph III. In order to make such an acquisition without Paragraph II prior approval, respondents shall:

1. Notify the Commission at least thirty (30) days prior to such acquisition.

Such notification shall follow the format for filings under section 7A of the Clayton Act, 15 U.S.C. 18a, and the Commission's Premerger Reporting Rules promulgated thereunder, 16 CFR Part 801 *et seq.* Such notification shall be in addition to any reporting requirements applicable to the transaction under said statute and rules; and

2. Divest, absolutely and in good faith within six (6) months after the date of any such acquisition, its business of bottling, distributing and selling CSDs and non-carbonated drinks, except for carbonated and non-carbonated waters, that it then conducts through any Existing Honickman Bottling Operation in those counties in the New York Metropolitan Area in which such newly-acquired Bottling Operation also operates (such Existing Honickman Bottling Operation is hereinafter referred to as "Paragraph III Operation"). Such divestiture may be accomplished by sale, full and complete and irrevocable sublicense agreement, full and complete assignment of rights or otherwise; provided it shall include a transfer of all rights held by such Paragraph III Operation to bottle, distribute and sell CSDs and non-carbonated drinks, except for carbonated and non-carbonated waters, in those New York Metropolitan Area counties in which the Newly-Acquired Bottling Operation also operates (hereinafter the "Geographic Area of Competition"), including without limitation and to the extent such rights pertain to the Geographic Area of Competition, all rights to bottle, distribute and sell CSDs and non-carbonated drinks, except for carbonated and non-carbonated waters, in the Geographic Area of Competition held pursuant to franchises, licenses, bottling appointments, distribution or other agreements; together with all assets that are dedicated to or necessary for such Paragraph III Operation's business of bottling, distributing and selling CSDs and non-carbonated drinks, except for carbonated and non-carbonated waters, in the Geographic Area of Competition, including without limitation, vehicles, vending machines, visi-coolers, fountain equipment, funded employee benefit plans, if any, full-goods inventory, point of sale marketing equipment, supply agreements, customer lists, customer agreements or understandings (whether formal or informal), all customer records and files and all other assets, interests, rights and privileges owned by, dedicated to, or necessary for such Paragraph III Operation.

B. Respondents shall comply with all of the terms of the Agreement to Hold Separate, attached hereto and made a part hereof as appendix I. If respondents shall be required to make any divestiture pursuant to Paragraph III.A.2 of this order, said Agreement to Hold Separate shall become effective as of the date of the acquisition that gave rise to the Paragraph III.A.2 divestiture obligations and shall continue in effect until such time as respondents' divestiture obligations under Paragraph III of this order are satisfied or until such other time as the Agreement to Hold Separate provides.

C. Respondents shall divest all Paragraph III Operations only to an acquirer that receives the prior approval of the Commission, and only in a manner that receives the prior approval of the Commission. The purpose of Paragraphs III–A through III–B of this order is to ensure that respondents' acquisition of any Bottling Operation in the New York Metropolitan Area is not likely to result in any lessening of competition.

D. Pending divestiture respondents shall take such action as is necessary to maintain the viability and marketability of all Paragraph III Operations and shall not cause or permit the destruction, removal or impairment of any Paragraph III Operation or any part thereof, except in the ordinary course of business and except for ordinary wear and tear.

IV

It is further ordered that:

A. If respondents have not divested, as required by Paragraph III, all Paragraph III Operations within six months from the date of the acquisition that gave rise to the Paragraph III.A.2 divestiture obligations, respondents shall consent to the appointment of a trustee by the Commission to divest the Paragraph III Operations. In the event the Commission or the Attorney General brings an action pursuant to section 5(*l*) of the Federal Trade Commission Act, 15 U.S.C. 45(*l*), or any other statute enforced by the Commission or the Department of Justice for violation of this order, respondents shall similarly consent to the appointment of a trustee in such action to divest the Paragraph III Operation, if any. Neither the appointment of a trustee nor a decision not to appoint a trustee shall preclude the Commission or the Attorney General from seeking civil penalties and any other relief available, including a court-appointed trustee, pursuant to section 5(*l*) of the Federal Trade Commission Act, 15 U.S.C. 45(*l*), or any other statute enforced by the Commission or the Department of Justice, for any failure by respondents to comply with this order.

B. If a trustee ("trustee") is appointed by the Commission or a court pursuant to this Paragraph IV, the following terms and conditions shall apply:

(1) The Commission or a court shall select the trustee, subject to the consent of respondents, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures.

(2) The trustee shall have the exclusive power and authority, subject to the prior approval of the Commission, to divest the Paragraph III Operations. The trustee shall have eighteen (18) months from the date of appointment to accomplish the divestiture, which shall be subject to the prior approval of the Commission. If, however, at the end of the eighteen-month period, the trustee has submitted a plan of divestiture or believes that divestiture can be accomplished within a reasonable time, the divestiture period may be extended for another eighteen-month period by the Commission, and, in the case of a court-appointed trustee, by the court; provided, however, that the Commission or court may only extend the divestiture period for one additional eighteen-month period.

(3) Respondents shall make available to the trustee, and the trustee shall have full and complete access to, the personnel, books, records and facilities relating to the Paragraph III Operations that the trustee has the duty to divest. Respondents shall develop such financial or other information as the trustee may reasonably request, and respondents shall cooperate with the trustee and shall take no action to interfere with or impede the trustee's accomplishment of the divestiture. Any delays in divestiture caused by respondents shall extend the time for divestiture under this Paragraph IV in an amount equal to that delay, as determined by the Commission or, for a court-appointed trustee, by the court.

(4) Subject to respondents' absolute and unconditional obligation to divest at no minimum price and the purpose of the divestiture as stated in Paragraph III–C of this order, the trustee shall use his or her best efforts to negotiate the most favorable price and terms available with each acquiring entity for the divestiture of the Paragraph III Operations. If the trustee receives bona fide offers from more than one prospective acquirer, and if the Commission approves more than one such acquirer, the trustee shall divest to the acquirer selected by respondents

from among those approved by the Commission.

(5) The trustee shall serve, without bond or other security, at the cost and expense of respondents, on such reasonable and customary terms and conditions as the Commission or a court may set. The trustee shall have authority to retain, at the cost and expense of respondents, such consultants, accountants, attorneys, investment bankers, business brokers, accountants, appraisers and other representatives and assistants as are reasonable necessary to carry out the trustee's duties and responsibilities. The trustee shall account for all monies derived from the divestiture(s) and for all expenses incurred. After approval by the Commission and, in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid at the direction of respondents, and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement contingent on the trustee divesting the Paragraph III Operation(s).

(6) Except for cases of misfeasance, negligence, wilful or wanton acts or bad faith by the trustee, the trustee shall not be liable to respondents for any action taken or not taken in the performance of the trusteeship. Respondents shall, consistent with the provisions of this order, indemnify the trustee and hold the trustee harmless against any losses, claims, damages, or liabilities arising in any manner out of, or in connection with, the trustee's duties under this order.

(7) Within sixty (60) days after appointment of the trustee, and subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, respondents shall execute a trust agreement consistent with the provisions of this order that transfers to the trustee all rights and powers necessary to permit the trustee to effect the divestiture(s) required by this order.

(8) If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in this order.

(9) The Commission or, in the case of a court-appointed trustee, the court, may on its own initiative or at the request of the trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture required by this order.

(10) The trustee shall have no obligation or authority to operate or maintain the Paragraph III Operations.

(11) The trustee shall report in writing to respondents and to the Commission every sixty (60) days after the date of appointment concerning the trustee's efforts to accomplish the divestiture(s).

V

It is further ordered that

A. Within ninety (90) days after the date this order becomes final, and every ninety (90) days thereafter until respondents have fully complied with the provisions of Paragraph II of this order—and if respondents elect to follow the provisions of Paragraph III of this order, within ninety (90) days after the notification required by Paragraph III–A(1) of this order, any every ninety (90) days thereafter until respondents have fully complied with the provisions of Paragraph III of this order—respondents shall submit to the Commission a verified written report setting forth in detail the manner and form in which they intend to comply, are complying, or have complied with those provisions. Respondents shall include in any report concerning compliance with Paragraph III of this order, among other things that are required from time to time, a full description of all contacts or negotiations with prospective acquirers for the divestiture(s) of the Paragraph III Operations, including the identity of all parties contacted. Respondents shall also include in such compliance reports copies of all written communications to and from such parties, and all internal memoranda, reports and recommendations concerning divestiture(s).

B. One year after the date this order becomes final and annually thereafter for nine (9) years, respondents shall file with the Commission a verified written report of their compliance with Paragraph II of this order.

VI

It is further ordered that:

A. For a period of ten (10) years after the date this order becomes final, respondents shall notify the Commission at least thirty (30) days prior to any proposed corporate change, such as dissolution, assignment or sale resulting in the emergency of a successor entity, the creation or dissolution of subsidiaries or any other change in respondents or in any entity controlled by Honickman that may affect compliance with the obligations arising out of this order.

B. Respondents shall promptly notify the Commission of the name and address of any successor to Peter E. Greene, Skadden, Arps, Slate, Meagher & Flom, 919 Third Avenue, New York, New York 10022, with a statement that such successor is empowered on respondents' behalf to accept service for purposes of this order.

VII

It is further ordered that for a period of ten (10) years after the date this order becomes final and for the purpose of determining or securing compliance with this order, subject to any legally recognized privilege, and upon written request and with reasonable notice to respondents, respondents shall permit any duly authorized representative or representatives of the Commission: (1) Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in their respective possession relating to any matters contained in this order; and (2) upon five (5) days written notice to respondents and without restraint or interference from respondents, to interview management personnel of any Bottling Operation that they control, who may have counsel present, regarding any matters contained in this order.

Addendum to Agreement Containing Consent Order To Preserve Seven-Up Brooklyn Franchises

This Addendum to Agreement Containing Consent Order to Preserve Seven-Up Brooklyn Franchises ("Addendum") is by and between Harold A. Honickman ("Honickman"), an individual, with a place of residence at 66 Bayview Drive, Loveladies, New Jersey 08008; Brooklyn Beverage Acquisition Corporation ("BBCA"), a corporation, with a principal place of business located at 1500 The Fidelity Building, Philadelphia, Pennsylvania 19019; and the Federal Trade Commission (the "Commission"), an independent agency of the United States Government, established under the Federal Trade Commission Act of 1914, 15 U.S.C. 41, *et seq.* (Honickman and BBAC individually, the "Respondents"; Honickman BBAC and the Commission collectively, the "Parties").

Premises

Whereas, on or about July 30 and August 3, 1987, Respondents acquired interests in certain assets acquired from Seven-Up Brooklyn Bottling Company, Inc. ("Acquisition"), which assets were operated under the name of Seven-Up Brooklyn Bottling Company; and

Whereas, on or about December 13, 1988, Respondents divested all of their interests in the operating assets of Seven-Up Brooklyn Bottling Company

("Seven-Up Brooklyn") to LTF 1987–3, Inc.; and

Whereas, Respondents and Seven-Up Brooklyn were both engaged, and Respondents are still engaged in the bottling or distribution of carbonated soft drinks ("CSDs"), noncarbonated soft drinks, still waters and carbonated waters in certain counties within the New York Metropolitan Area; and

Whereas, Seven-Up Brooklyn is now in a bankruptcy proceeding that has made it incapable of manufacturing or distributing CSDs, noncarbonated soft drinks, still waters and carbonated waters; and

Whereas, the Commission issued a Complaint alleging that the Acquisition was unlawful under section 7 of the Clayton Act, 15 U.S.C. 18, and section 5 of the Federal Trade Commission Act, 15 U.S.C. 45; and

Whereas, the Commission is concerned that if temporary provision is not made to continue the manufacture and distribution of the CSDs, previously manufactured and distributed by Seven-Up Brooklyn in the franchise territories it served, such product temporarily would be unavailable to consumers in such territories; and

Whereas, the purpose of this Addendum is to:

(i) Maintain the uninterrupted competitive presence of the brands of CSDs previously manufactured or distributed by Seven-Up Brooklyn in the franchise territories previously serviced by it;

(ii) Preserve the CSD businesses of Seven-Up Brooklyn as independent and viable businesses; and

(iii) Prevent anticompetitive effects that might result from any interim arrangement; and

Whereas, Respondent's entering into this Addendum shall in no way be construed as an admission by Respondents that the Acquisition is unlawful; and

Whereas, Respondents understand and agree that no act or transaction contemplated by this Addendum shall be deemed immune or exempt from the provisions of the antitrust laws or the Federal Trade Commission Act by reason of anything contained in this Addendum.

Now, Therefore, the parties agree, in consideration of the Commission's agreement that, unless the Commission determines to reject the Consent Order, the Commission will not seek further relief from Respondents with respect to the Acquisition, except relief pursuant to section 7A[g]1 of the Clayton Act, 15 U.S.C. 18a[g]1, and except that the Commission may exercise any and all rights to enforce this Addendum and the Consent Order to which it is annexed and made a part thereof, as follows:

1. Respondents agree to execute and be bound by the Agreement Containing Consent Order, signed by Respondents on January 9, 1991.

2. Respondents waive all rights to contest the validity of this agreement.

3. Respondents may enter into an interim manufacturing and distribution arrangement covering the CSDs previously manufactured and distributed by Seven-Up Brooklyn on the following terms and conditions:

a. The franchisors shall approve Respondent's interim manufacturing and distribution arrangements and may rescind the arrangements, at any time for competitive or other reasons;

b. The manufacturing and distribution arrangement shall continue for a period not to exceed 90 days, unless extended by the Commission;

c. For all brands distributed on an interim basis, Respondents shall use all reasonable efforts to maintain the viability, marketability, market share, and separate identity of all Seven-Up Brooklyn businesses and franchises and the distinct brand identification of Seven-Up Brooklyn brands and shall not sell, transfer, encumber (other than in the normal course of business), or otherwise impair the marketability, viability, or separate identity of the Seven-Up Brooklyn businesses and franchises.

d. For all brands distributed on an interim basis, Respondents shall use all reasonable efforts to maintain and preserve the shelf space of all Seven-Up Brooklyn businesses and franchises and shall not sell, transfer, encumber (other than in the normal course of business), or otherwise impair the shelf space of the Seven-Up Brooklyn businesses and franchises. Respondents shall raise no objections to, impose no conditions on returning or refuse to return the shelf space to any new owners of the Seven-Up Brooklyn businesses and franchises, provided that Respondents did not pay a fee for the shelf space or used the shelf space for Respondent's existing brands and businesses before the date that this Addendum was signed.

4. Upon ten days notice, the Federal Trade Commission may rescind this Addendum, and Respondents shall not raise any objections based on the fact that the Commission has approved the manufacturing and distribution arrangement.

5. For the purpose of determining or securing compliance with this Addendum, subject to any legally recognized privilege, and upon written request with reasonable notice to Respondents made to their counsel, Respondents shall permit any duly authorized representative or representatives of the Commission:

a. Access during the office hours of any entity owned or controlled by Respondents and in the presence of counsel to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of Respondents relating to compliance with this Addendum;

b. Upon five (5) days notice to Respondents, and without restraint or interference from them, to interview officers or employees of Respondents, who may have counsel present, regarding any such matters.

6. This agreement shall not be binding until approved by the Commission.

Analysis to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Harold A. Honickman and Brooklyn Beverage Acquisition Corporation ("BBAC") in D. 9233.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Complaint alleges that the acquisition by Honickman and BBAC of Seven-Up Brooklyn Bottling Company, Inc., in mid-1987 was anticompetitive; that Honickman controls BBAC; that, at the time of the acquisition, Honickman owned Pepsi-Cola Bottling Company of New York, Inc., and Canada Dry Bottling Company of New York; that Honickman and Seven-Up Brooklyn were horizontal competitors in the alleged markets; and that the effect of the acquisition was to eliminate competition from Seven-Up Brooklyn, increase the likelihood of or facilitate actual or tacit collusion, increase the difficulty of entering the market, and reduce competition among soft drink brands. The proposed consent is intended to eliminate these allegedly anticompetitive effects.

Under the proposed order, Honickman and BBAC need the Commission's prior approval before buying bottlers or franchises in parts of the New York metropolitan area. They could only buy bottlers or franchises without obtaining Commission approval if they held the newly acquired assets separate and

apart from ongoing bottling operations. The hold separate would not dissolve until Honickman and BBAC divested any competing bottling assets in the same area. This divestiture is subject to Commission approval.

The prior approval provisions would give the Commission an opportunity to look into the competitive effect of a proposed purchase. If Honickman and BBAC elected to use the hold separate procedures instead of seeking prior approval, the hold separate agreement and divestiture requirement would eliminate the common ownership of existing and newly acquired assets.

The consent package also contains an "Addendum to Agreement to Consent Order to Preserve Seven-Up Brooklyn Franchises." The Addendum would allow Honickman to distribute and sell Seven-Up Brooklyn's products for a limited time period while the Commission reviews Honickman's application to purchase Seven-Up Brooklyn. The Addendum is intended to preserve Seven-Up Brooklyn assets and is not intended to suggest any predisposition on the part of the Commission regarding the disposition of Seven-Up Brooklyn after a public comment period on any application by Honickman to purchase Seven-Up Brooklyn. Moreover, the Commission is aware that there are existing contractual provisions between franchisors and franchisees that may be germane to interim distribution. The Commission's approval of the Addendum for public comment is not intended to compromise the rights of any party under any franchise agreement or other contract.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or modify in any way their terms.

Donald S. Clark,

Secretary.

Concurring Statement of Commissioner Andrew J. Strenio, Jr.

Harold Honickman, et al., Docket No. 9233

Most Commission orders involving challenged acquisitions contain a provision prohibiting respondents from acquiring without prior Commission approval the stock or assets of any entity in the relevant product and geographic markets. Such prior approval provisions virtually always run for ten years.

The proposed consent in this matter differs from the typical Commission order by providing respondents with two alternative ways to acquire carbonated soft drink bottlers in the relevant geographic market. One is through the standard prior approval mechanism. The other is by holding the newly-acquired assets separate from existing operations until respondents divest any overlapping assets. Under this second mechanism, respondents would have to obtain Commission approval of the divestiture.

Although I generally do not favor departing from standard Commission practices involving acquisitions, the special circumstances here appear to support acceptance of the proposed consent for public comment. The complaint alleges that respondents own Pepsi and Canada Dry bottling operations in the relevant geographic market. The complaint was issued after respondents acquired (and later sold) Seven-Up Brooklyn Bottling Company ("Brooklyn-7Up"), an alleged horizontal competitor of respondents' existing bottling operations.

In settling the administrative litigation, the Commission must be wary of the possibility that respondents may attempt to re-acquire the Brooklyn-7Up assets that gave rise to the litigation. Brooklyn-7Up is in bankruptcy proceedings and may be liquidated. It certainly would be ironic if the failure to reach a settlement here put the antitrust matter back into administrative litigation and, as a result, respondents were able to purchase the Brooklyn-7Up assets as a failing company through the bankruptcy proceedings without prior Commission approval.

The only recourse for the Commission in that event would be to seek a preliminary injunction in federal court. Of course, the outcome of such litigation would hardly be preordained. If a preliminary injunction were not granted, soft drink consumers in the relevant market might come up dry.

Further, the special circumstances of this case appear to make the proposed consent more effective than the typical order. When a typical consent is violated by a prohibited stock or assets acquisition, the Commission can seek to require divestiture of the newly-acquired assets and the payment of civil penalties of up to $10,000 per day. If respondents were to violate this proposed consent, the Commission could seek the payment of the $10,000 per day civil penalties and also seek to require the divestiture of respondents' existing assets. Respondents' existing assets would be at stake in this scenario under the proposed consent because they would not have sought the Commission's prior approval to purchase the newly-acquired assets. In such a situation, the consent would require respondents to hold separate those newly-acquired assets while they divest their overlapping existing assets. Since respondents' existing assets appear to be far more valuable than the Brooklyn-7Up assets in question, the proposed consent seems to have sharp teeth indeed.

Unlike the Brooklyn-7Up franchise, it appears improbable that respondents would have a problem finding buyers for their Pepsi and Canada Dry bottling operations. First, there is no indication that either the Pepsi or the Canada Dry bottling operations are in financial difficulty. Second, at least with respect to Pepsi, that parent company has a history of acquiring its bottling operations and it seems implausible that parent Pepsi would risk having its product come off the shelves in any portion of the New York metropolitan area.

Although this consent, if accepted finally by the Commission, might permit respondents to acquire Brooklyn-7Up, they still would run an enormous risk if the Commission's prior approval is not sought and granted before such acquisition. Also of great importance, the consent provides for both an orderly disposition of the Brooklyn-7Up assets and would provide time for other potential purchasers to make bids for these assets.

For the above reasons, while reasonable individuals could differ on this assessment, I have voted to accept the proposed consent for public comment.

Dissenting Statement of Commissioner Deborah K. Owen in Harold Honickman, et al., D. 9233

This matter was the subject of administrative litigation when the Commission staff and the respondent reached agreement on the proposed consent order. As in many of our cases, deciding whether to accept this agreement for public comment necessarily must involve, among other considerations, weighing the possible (but not certain) benefits of achieving additional relief through further litigation, against the increased litigation costs. While reasonable people devoted to vigorous law enforcement could legitimately differ in their evaluation, I do not believe that the relief obtained through this consent is sufficient in this case to warrant ceasing litigation. Accordingly, when this consent came before the Commission in February, I dissented.

The respondent had already essentially divested his control of the operations of the acquired business, Seven-Up Brooklyn Bottling Company ("Seven-Up Brooklyn"); therefore divestiture of the operations was not at issue. The issue, as I saw it, was what relief is appropriate to prevent possible future violations of the antitrust laws by this respondent, through acquisitions involving the relevant product and geographic markets in this case.

Unlike many of our consent orders, this proposed agreement does not require the respondent to obtain prior Commission approval for all acquisitions involving the relevant product and geographic markets at issue here. Instead, Part III of the order, as an alternative to prior approval, permits the respondent to hold any acquired business separate from his existing soft drink businesses, and then divest (with prior Commission approval) the existing business that generates the competitive overlap. This provision, as I understand it, is designed to allow the respondent to "trade up".

There certainly may be instances where this would be appropriate relief. However, given the facts of this case, and comparing them to other cases where we have not afforded the respondents a similar opportunity to "trade up", I must respectfully dissent from the Commission's decision to accept the consent agreement for public comment. I would prefer a consent order in this case that required Commission approval prior to *any* acquisition by the respondent involving the relevant product and geographic markets.

Seven-Up Brooklyn is now in bankruptcy. Since the Commission voted to accept this consent agreement for public comment in February, the Commission staff has searched for a way to maintain Seven-Up Brooklyn as an independent competitor in the market place. Despite staff's efforts, the only purchaser for Seven-Up Brooklyn, acceptable to its major creditors, apparently was Harold Honickman.

The Commission staff has negotiated an addendum to the consent agreement to allow Mr. Honickman to distribute, on an interim basis, the soft drink brands formerly sold by Seven-Up Brooklyn. Without such an interim agreement, it appears that the brands formerly carried by Seven-Up Brooklyn would be removed from the marketplace, reducing competition to the detriment of producers of soft drink concentrate and consumers of soft drinks.

Since the Commission has already accepted the consent agreement in this case, I agree that the Commission should accept the interim distribution agreement. Rejecting the interim agreement will not enhance competition in the relevant market. However, the failed attempt to locate an alternative buyer for Seven-Up Brooklyn only reinforces my belief that a prior approval requirement is the appropriate relief for the underlying consent agreement.

Under the "trade up" provision of the consent agreement, Mr. Honickman is free to acquire competitor bottlers without the prior approval of the Commission. Mr. Honickman must hold such companies separate until he disposes of his existing, overlapping activities. However, given the current scenario, this raises the not-unlikely prospect that once Mr. Honickman acquires a competitor, there may be no other viable buyer for the business or assets that Mr. Honickman is obligated to divest. This leaves him with *all* of the assets, albeit under a hold-separate arrangement. In such a case, the protection of the consent order appears to be less than what the Commission and the public would be afforded under a prior approval provision. For this reason, I would prefer to reject the consent agreement and litigate to attempt to get a prior approval order.

[FR Doc. 91–10137 Filed 4–29–91; 8:45 am]
BILLING CODE 6750-01-M

[File No. 902 3366]

Zipatone, Inc., et al.; Proposed Consent Agreement with Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a Hillside, Ill., based manufacturer of artists' materials from representing that any product containing a Class I ozone-depleting substance will not damage the environment, and from making any unsubstantiated claims that any product containing an ozone-depleting substance offers environmental benefits.

DATES: Comments must be received on or before July 1, 1991.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Michael Dershowitz, FTC/S–4002, Washington, DC 20580. (202) 326–3158.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Zipatone, Inc. (hereinafter "Zipatone"), a corporation, and Benjamin E. Beale Jr., individually and as an officer of said corporation, hereinafter sometimes referred to as proposed respondents, and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the acts and practices being investigated,

It is hereby agreed by and between Zipatone, by its duly authorized officer, and Benjamin E. Beale, Jr., individually and as an officer of said corporation, and counsel for the Federal Trade Commission that:

1. Proposed Respondent Zipatone is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business at 150 Fencl Lane, Hillside, Illinois 60162.

Proposed Respondent Benjamin E. Beale, Jr. is an officer of said corporation. He formulates, directs and controls the acts and practices of said corporation, and his address is the same as that of said corporation.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive: (a) Any further procedural steps.

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law.

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

(d) All claims under the Equal Access to Justice Act.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of the complaint contemplated hereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may requires) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint as attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they might have to any other manner of service.

The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the complaint and the order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

Definitions

For purposes of the Order, the following definitions shall apply:

Compentent and reliable scientific evidence means such tests, analyses, research, studies, or other scientific evidence conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted by others in the profession to yield accurate and reliable results.

Class I ozone depleting substance means a substance that harms the environment by destroying ozone in the upper atmosphere and is listed as such in title 6 of the Clean Air Act Amendments of 1990, Pub. L. No. 101–549, and any other substance which may in the future be added to the list pursuant to title 6 of the Act. Class 1 substances currently include chlorofluorocarbons, halons, carbon tetrachloride and 1,1,1-Trichloroethane.

Class II ozone depleting substance means a substance that harms the environment by destroying ozone in the upper atmosphere and is listed as such in title 6, of the Clean Air Act Amendments of 1990, Pub. L. No. 101–549, and any other substance which may in the future be added to the list pursuant to title 6 of the Act. Class 11 substances currently include hydrochlorofluorocarbons.

I

It is Ordered that respondents Zipatone, Inc. (hereinafter "Zipatone"), a corporation, its successors and assigns, and its officers, and Benjamin E. Beale, Jr., individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, offering for sale, sale, or distribution of any product, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, by words, depictions, or symbols that any product containing any Class I ozone depleting substance, will not damage the environment, or is ecologically safe, or through the use of any substantially similar term or expression, including but not limited to "ozone friendly" or "ozone safe," that any such product will not damage the environment, or that any such product is ecologically safe, or that any such product will not deplete, destroy, or otherwise adversely affect ozone in the upper atmosphere.

II

It is further ordered that respondents Zipatone, a corporation, its successors and assigns, and its officers, and Benjamin E. Beale, Jr., individually and as an officer of said corporation, and respondents's representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, offering for sale, sale, or distribution of any product, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, by words, depictions or symbols, that any product containing any Class I ozone depleting substance or any Class II ozone depleting substance, or any other ozone depleting substance, offers any environmental benefits, including but not limited to any environmental benefit claims concerning the ecology, atmosphere, upper atmosphere, stratosphere or the ozone layer, unless at the time of making such representation, respondents possess and rely upon a reasonable basis, consisting of competent and reliable scientific evidence that substantiates such representation.

III

It is further ordered that for three years from the date that the representations to which they pertain are last disseminated, respondents shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

1. All materials that respondents relied upon in disseminating any representation covered by this order.

2. All tests, reports, studies or surveys in respondents' possession or control or of which they have knowledge that contradict any representation of respondents covered by this order.

IV

It is further ordered that respondents shall distribute a copy of this order to each of its operating divisions and to each of its officers, agents, representatives, or employees engaged in the preparation and placement of advertisements, promotional materials, product labels or other such sales materials covered by this order.

V

It is further ordered that respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporation such as a dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations under this Order.

VI

It is further ordered that the individual respondent named herein shall promptly notify the Commission in the event of the discontinuance of his present business or employment and of each affiliation with a new business or employment. In addition, for a period of five (5) years from the date of service of this order, the respondent shall promptly notify the Commission of each affiliation with a new business or employment whose activities include the sale, distribution and/or manufacturing of any cleaning or adhesive products and products or of his affiliation with a new business or employment in which his own duties and responsibilities involve the sale, distribution and/or manufacturing of any cleaning or adhesive products. Such notice shall include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

VII

It is further ordered that respondents shall, within sixty (60) days after service of this Order upon it, and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from respondents Zipatone Corporation, an Illinois corporation, and Benjamin E.

Beale, Jr., individually and as an officer of the corporation.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns the labeling and advertising of Zipatone Spray Cement. The Commission's complaint charges that the respondents' labeling and advertising contains false and unsubstantiated representations concerning the environmental consequences of using their product. The complaint alleges that the respondents have represented that Zipatone Spray Cement contains an "ecologically-safe propellant" and that use of the product will not damage the environment, even though the product contains an ozone depleting chemical, 1,1,1-Trichloroethane.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondents from engaging in similar acts and practices in the future.

The proposed order defines ozone depleting substances as either "Class I" or "Class II," incorporating the definitions established in the Clean Air Act Amendments of 1990. Class I substances as currently listed under the Act are cholorfluorocarbons ("CFCs"), halons, carbon tetrachloride and 1,1,1-Trichloroethane. Class II substances as currently listed under the Act are hydrochlorofluorocarbons ("HCFCs").

Part I of the proposed order requires the respondents to cease and desist from representing that products containing any Class I ozone depleting substance will not damage the environment. Part I also requires the respondents to cease and desist from representing that any such product is ecologically safe, ozone safe, ozone friendly, or through the use of substantially similar terms or expressions, that any such product will not deplete, destroy, or otherwise adversely affect ozone in the upper atmosphere.

Part II of the proposed order requires respondents to cease and desist from representing that products containing a Class I, Class II, or any other ozone depleting substance, offer any environmental benefits, unless they possess a reasonable basis for such representations.

Under the Act, the Environmental Protection Agency has authority to add new chemicals to the Class I or Class II lists. Thus, the definitions of Class I and Class II ozone depleting substances specifically include substances that may be added to the lists. If additional substances are added to the Class I or Class II lists, Parts I and II of the order become applicable for claims made for products containing those substances after they are added to the lists. In addition, Part II applies as well to all unsubstantiated environmental benefit claims made for any product containing an ozone depleting substance, regardless of whether it formally has been listed by the Environmental Protection Agency.

The proposed order also requires respondents to maintain materials relied upon to substantiate claims covered by the order, to distribute copies of the order to certain company officials and employees, to notify the Commission of any changes in corporate structure that might affect compliance with the order, to notify the Commission of any changes in the business or employment of the named individual respondent, and to file one or more reports detailing compliance with the order.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 91-10138 Filed 4-29-91; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families; Agency Information Collection Under OMB Review

AGENCY: Administration for Children and Families, HHS.

ACTION: Notice.

Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), we have submitted to the Office of Management and Budget (OMB) for approval an existing information collection, the State Program Report for title III of the Older Americans Act, including revisions in two areas.

ADDRESSES: Copies of the information collection request may be obtained from Larry Guerrero, Reports Clearance Officer, by calling (202) 245-6275.

Written comments and questions regarding the requested approval for information collection should be sent directly to: Angela Antonelli, OMB Desk Officer for OHDS, OMB Reports Management Branch, New Executive Office Building, room 3002, 725 17th Street, NW., Washington, DC 20503, (202) 395-7316.

Information on Document

Title: State Program Report for title III of the Older Americans Act.

OMB No.: 0980-0199.

Description: Title III of the Older Americans Act provides authority for funding of programs under several parts: Part B (Supportive Services and Senior Centers), part C (Nutrition Service), part D (In-Home Services for Frail Older Individuals), Part E (Additional Assistance for Special Needs of Older Individuals), part F (Preventive Health Services), and part G (Prevention of Abuse, Neglect, and Exploitation of Older Individuals).

As part of its Fiscal Year (FY) 1991 allocation for Older Americans Act's title III programs, the Administration on Aging (AoA) has received funding to support activities under section 303(a)(2) (Ombudsman Program) and part G (Prevention of Abuse, Neglect, and Exploitation of Older Individuals). Until FY 1991, Ombudsman activities received federal funding under title III, part B (Supportive Services and Senior Centers), while part G received no funding. Reporting requirements for these two programs have been added to the information collection instrument being submitted to OMB for approval.

The data for title III programs, including part G, relate to the demographic characteristics of the State, unduplicated counts of participants, ethnicity of program participants, types and units of services provided, and service expenditures. The Ombudsman program collects data on the number of persons presenting complaints as well as the number, type, and disposition of complaints. The information collected will be included by AoA in its annual report to the President and Congress on activities carried out under the Older Americans Act. If this information is not collected, AoA will not be able to judge the effectiveness of Title III programs.

Annual Number of Respondents: 57.

Annual Frequency: 1.

Average Burden Hours Per Response: 18.

Total Burden Hours: 1,026.

Dated: April 23, 1991.

Donna N. Givens,

Deputy Assistant Secretary for Children and Families.

[FR Doc. 91-10133 Filed 4-29-91; 8:45 am]

BILLING CODE 4130-01-M

Administration for Children and Families; Intent To Reallot Basic Support and Protection and Advocacy Funds to States for Developmental Disabilities Expenditures

AGENCY: Administration on Developmental Disabilities, Administration for Children and Families, Department of Health and Human Services.

ACTION: Notice of intent to reallot funds.

SUMMARY: The Administration on Developmental Disabilities herein gives notice of intent to reallot Fiscal Year 1991 funds which are not available to the Trust Territories of the Pacific Islands under the terms of the Compact of Free Association. This notice is given in accordance with section 125(d) of the Developmental Disabilities Assistance and Bill of Rights Act. Any State or Territory which cannot use the additional funds for Fiscal Year 1991 should notify Bettye J. Mobley, Chief, Formula Grants Management Branch, room 341-F, HHH Building, 200 Independence Avenue SW., Washington, DC 20201, within thirty days of the day of this promulgation.

FOR FURTHER INFORMATION CONTACT: Bettye J. Mobley, (202) 245-7220.

The allotments are set forth below:

ADMINISTRATION ON DEVELOPMENTAL DISABILITIES FY 91 FORMULA GRANT

	Basic services	Reallotment	Revised allotment
Total	$64,409,000	$0	$64,409,000
Alabama	1,296,703	4,888	1,301,591
Alaska	350,000	1,319	351,319
American Samoa	200,000	753	200,753
Arizona	776,711	2,928	779,639
Arkansas	752,043	2,835	754,878
California	5,349,910	20,637	5,370,547
Colorado	651,456	2,455	653,911
Connecticut	620,831	2,340	623,171
District of Columbia	350,000	1,319	351,319
Delaware	350,000	1,319	351,319
Florida	2,708,033	10,209	2,718,242
Georgia	1,611,331	6,074	1,617,405
Guam	200,000	753	200,753
Hawaii	350,000	1,319	351,319
Idaho	350,000	1,319	351,319
Illinois	2,625,276	9,897	2,635,173
Indiana	1,443,915	5,443	1,449,358
Iowa	783,114	2,952	786,066
Kansas	588,175	2,217	590,392
Kentucky	1,195,838	4,508	1,200,346
Louisiana	1,378,243	5,195	1,383,438
Maine	355,857	1,341	357,198
Maryland	913,269	3,443	916,712
Massachusetts	1,237,162	4,664	1,241,826
Michigan	2,309,476	8,706	2,318,182
Minnesota	986,642	3,719	990,361
Mississippi	929,543	3,504	933,047
Missouri	1,301,722	4,907	1,306,629
Montana	350,000	1,319	351,319
Nebraska	395,190	1,489	396,679
Nevada	350,000	1,319	351,319
New Hampshire	350,000	1,319	351,319
New Jersey	1,461,872	5,511	1,467,383
New Mexico	423,525	1,596	425,121
New York	3,990,161	15,042	4,005,203
North Carolina	1,793,957	6,763	1,800,720
North Dakota	350,000	1,319	351,319
Northern Mariana	200,000	753	200,753
Ohio	2,802,194	10,564	2,812,758
Oklahoma	857,531	3,232	860,763
Oregon	651,960	2,457	654,417
Pennsylvania	3,093,556	11,662	3,105,218
Puerto Rico	2,253,751	8,496	2,262,247
Rhode Island	350,000	1,319	351,319
South Carolina	1,042,176	3,929	1,046,105
South Dakota	350,000	1,319	351,319
Tennessee	1,421,913	5,360	1,427,273
Texas	3,970,566	14,969	3,985,535
Trust Territories*	283,893	−242,189	41,704
Utah	473,192	1,783	474,975
Vermont	350,000	1,319	351,319
Virginia	1,356,078	5,112	1,361,190
Virgin Islands	200,000	753	200,753
Washington	994,925	3,750	998,675
West Virginia	715,644	2,697	718,341
Wisconsin	1,261,666	4,756	1,266,422

ADMINISTRATION ON DEVELOPMENTAL DISABILITIES FY 91 FORMULA GRANT—Continued

	Basic services	Reallotment	Revised allotment
Wyoming	350,000	1,319	351,319
*Trust Territories consist of:			
Palau	41,704	0	41,704
Micronesia	156,539	−156,539	0
Marshall Islands	85,650	−85,650	0

ADMINISTRATION ON DEVELOPMENTAL DISABILITIES FY 91 FORMULA GRANT

	Protection and advocacy	Reallotment	Revised allotment
Total	$20,982,000	$0	$20,982,000
Alabama	384,207	1,678	385,885
Alaska	200,000	873	200,873
American Samoa	107,000	467	107,467
Arizona	243,774	1,065	244,839
Arkansas	222,922	974	223,869
California	1,587,102	7,030	1,594,132
Colorado	218,207	953	219,160
Connecticut	207,387	906	208,293
District of Columbia	200,000	873	200,873
Delaware	200,000	873	200,873
Florida	803,217	3,510	806,727
Georgia	477,634	2,087	479,721
Guam	107,000	467	107,467
Hawaii	200,000	873	200,873
Idaho	200,000	873	200,873
Illinois	777,994	3,399	781,393
Indiana	428,015	1,870	429,885
Iowa	231,985	1,013	232,998
Kansas	200,000	873	200,873
Kentucky	354,272	1,548	355,820
Louisiana	408,540	1,785	410,325
Maine	200,000	873	200,873
Maryland	270,754	1,183	271,937
Massachusetts	366,366	1,601	367,967
Michigan	684,144	2,989	687,133
Minnesota	292,469	1,278	293,747
Mississippi	275,509	1,203	276,712
Missouri	385,791	1,685	387,476
Montana	200,000	873	200,873
Nebraska	200,000	873	200,873
Nevada	200,000	873	200,873
New Hampshire	200,000	873	200,873
New Jersey	433,102	1,892	434,994
New Mexico	200,000	873	200,873
New York	1,181,616	5,163	1,186,779
North Carolina	531,698	2,323	534,021
North Dakota	200,000	873	200,873
Northern Mariana	107,000	467	107,467
Ohio	830,305	3,628	833,933
Oklahoma	254,398	1,111	255,509
Oregon	208,809	912	209,721
Pennsylvania	916,342	4,004	920,346
Puerto Rico	668,101	2,919	671,020
Rhode Island	200,000	873	200,873
South Carolina	308,936	1,350	310,286
South Dakota	200,000	873	200,873
Tennessee	421,364	1,841	423,205
Texas	1,178,187	5,148	1,183,335
Trust Territories *	107,000	−91,282	15,718
Utah	200,000	873	200,873
Vermont	200,000	873	200,873
Virginia	401,880	1,756	403,636
Virgin Islands	107,000	467	107,467
Washington	295,163	1,289	296,452
West Virginia	223,003	974	223,977
Wisconsin	373,807	1,633	375,440
Wyoming	200,000	873	200,873
* Trust Territories consists of:			
Palau	15,718	0	15,718
Micronesia	59,000	−59,000	0
Marshall Islands	32,282	−32,282	0

(Catalog of Federal Assistance Programs, Number 93, 630 Developmental Disabilities—Basic Support and Advocacy Grants.)

Dated: April 18, 1991.

Deborah L. McFadden,

Commissioner, Administration on Developmental Disabilities.

Approved: April 24, 1991.

Donna N. Givens,

Deputy Assistant Secretary for Children and Families.

[FR Doc. 91-10080 Filed 4-29-91; 8:45 am]

BILLING CODE 4130-01-M

Alcohol, Drug Abuse, and Mental Health Administration

[MH-91-08]

Center for Research, Knowledge Dissemination, and Technical Assistance on Housing and Residential Supports

INSTITUTE: National Institute of Mental Health.

AGENCY: Notice of request for applications.

INTRODUCTION: This is a reissuance of a previous announcement. This grant will be made under the authority of section 520 of the Public Health Service (PHS) Act which authorizes funds for demonstrations of mental health services for individuals with severe and persistent mental disorders. The National Institute of Mental Health (NIMH) announces the availability of support for one National Center for Research, Knowledge Dissemination, and Technical Assistance on Housing and Residential Supports.

PURPOSE: Meeting the mental health and support service needs related to housing for people with severe and persistent mental disorders has been complicated by the dramatic decline in availability of decent, affordable housing and the insufficient development of outreach and other supportive services to individuals living in scattered sites in communities. To understand the underlying problems and identify the knowledge and information needs of the field, the NIMH Community Support Program (CSP) conducted several meetings during the past decade. Among the problems identified were: confusion regarding the roles and responsibilities of governmental levels and various mental health and other public services agencies, dissatisfaction of individuals living in congregate settings, lack of knowledge on which service and rehabilitation approaches are effective in helping individuals find and maintain housing, and significant conceptual and practical problems with the traditional models of transitional housing.

To address the problems, CSP initiated knowledge development and dissemination activities, including funding five Supported Housing Service Demonstration Projects and a national evaluation of these projects under the Authority of section 504(f) of the Public Health Service Act. Much has been learned from these efforts and related research, evaluation, and programmatic experience during the past 6 years. Using this knowledge, States are developing plans to increase housing for the population. As they begin to implement these plans, States continue to need the best available information on creative financing strategies, effective collaboration between housing and mental health agencies, approaches for linking housing to services and supports, and the role of client choice. The field also needs more knowledge on the specific supported-housing and other residential service approaches that are effective for certain types of individuals, the system changes needed to reorganize services and supports in order to make these accessible to people living in the community, staff training requirements, and consumer and family roles in accessing and providing housing and residential supports.

The purpose of this Center is to provide a research environment and information dissemination center in the area of outreach and other mental health and supportive services related to housing needs for adults diagnosed with a severe and persistent mental disorder. The Center will permit individuals with research and program expertise to develop and conduct research studies, disseminate research findings and other relevant information, and interact with and provide assistance to State mental health directors, local programs, researchers, practitioners, mental health consumers, and family members.

The use of a national center mechanism responds to a recommendation in the *National Plan of Research to Improve Care for Severe Mental Disorders*, a report that was developed under the direction of the National Advisory Mental Health Council. The Plan recommends that NIMH support centers that can effectively bring together researchers, clinicians, and administrators and provide opportunities for developing and maintaining stable linkages with State mental health agencies, consumer and family groups, and other important service entities. As the Plan notes, developing effective outreach and other mental health and supportive services related to housing needs is particularly complicated because of the variety of programs administrated by various agencies and the need to understand entitlements and how all these interrelate at the point of service delivery and at different government levels. It is, therefore, particularly critical in the area of housing to bring together individuals representing different disciplines and having expertise in the wide range of relevant services involving the formal service sectors and natural supports.

A national center focused on outreach and other mental health and supportive services related to housing also responds to objectives 6.8 and 6.12 in *Healthy People 2000: National Health Promotion and Disease Prevention Objectives.*

NIMH intends that the technical assistance provided by the Center will support the housing and service development plans in the State's comprehensive mental health service plan submitted to NIMH for review under Public Law 99-660, The State Comprehensive Mental Health Service Plan Act of 1987, and its subsequent amendments.

Research Issues

It is expected that the Center will be active in research, but the Center's budget itself will support only small scale studies, pilot projects, or methodologic studies. The core Center support will be used to develop proposals for major studies that will be funded by separate applications or by other sources and to assist other potential applicants to develop proposals for major research or research demonstration projects.

Listed below are examples of the range of relevant research areas that might be addressed by the Center. The list is not exhaustive; it is expected that applicants will identify other important topics:

- Studies on where people with mental disorders live, where they want to live, and what mental health and support services they need to succeed in that living situation
- Investigation of the differences and outcomes of alternative types of living arrangements (e.g., supervised residential programs, board-and-care homes, community integrated housing) on the mental health and general well-being of the population
- Studies of effective approaches for meeting the residential support needs of individuals who are currently unserved such as those remaining in institutions,

those who are homeless, and those living with families

- Documenting the characteristics of safe, stable, health-engendering living environments that enable individuals to use their own coping skills and adaptive capacities to adjust to community living situations
- Identification of the most effective ways to help people with multiple problems (e.g., mental illness and substance abuse, mental illness and homeless) find and maintain housing in the community
- Research on how to provide housing in the community for individuals with severe mental disorders who require large amounts of support and structure
- Assessment of the most effective ways to help families when the family member with a mental disorder lives at home
- Documenting effective approaches for developing housing and supportive services in rural areas and for assisting such individuals where there are few available supports and services
- Studies to determine which types of psychiatric rehabilitation and independent living skills training help individuals succeed in their community living situations
- Evaluating the impact of supportive services provided by mental health consumers, such as outreach and peer support, on increasing the housing stability of the population

Knowledge Dissemination Issues

Because of the emphasis of NIMH on supporting rigorous research on services for the population, and the increased capacity of scientific and academic centers, State mental health agencies, and local programs to conduct research, the knowledge base on effective mental health services and services in related disabilities is expanding rapidly. This has intensified the need for dissemination to potential users. Additionally, with the likelihood of continuing mental health and housing development budget constraints, States and communities need information on cost-effective approaches. Finally, there will be an increasing need to disseminate the best available information (e.g., findings from all relevant research studies and descriptions of best practices) to the field to support the community integration goals of the recent Americans with Disabilities Act.

Examples of dissemination mechanisms include summaries of recent important articles and critical reviews, newsletters, small conferences or interactive video conferences to present on relevant developments in the field, and easy-to-read fact sheets on topical issues in nontechnical language for the media and advocacy groups.

Technical Assistance Needs

Almost all States and Territories are involved in planning efforts to improve housing, rehabilitation, and other supportive services for individuals with severe and persistent mental disorders. To implement their plans, many States need consultation on clarifying their goals and desired outcomes, identifying financing strategies, using findings from the research and best practices to redesign community support services and restructure mental health service systems, and developing useful program evaluations and quality research projects.

Examples of useful technical assistance approaches include developing materials such as training packages, program development manuals, financing guides, monitoring and evaluation tools, and working with colleges and universities to translate research findings into curricula and training packages. Other examples include the use of individuals or teams experienced in specific innovative services who could meet with State and local officials and practitioners to assist in the diffusion of the innovations.

Assistance could be provided to researchers on identifying the most important research questions that need to be answered and measuring successful community integration. Local programs could be assisted to design research demonstration projects to test alternative approaches to providing housing and supports.

Research Populations

Population of Concern for CSP Grants

The population of concern for the Center includes individuals 18 years and over with a severe and persistent mental disorder that seriously impairs functioning in primary aspects of daily living such as interpersonal relations, living arrangements, or employment. Applicants should attend to the unique needs and special concerns of racial and ethnic minorities and women.

Special Instructions to Applicants Regarding Implementation of ADAMHA Policies Concerning Inclusion of Women and Minorities in Clinical Research Studies Population

Applications/proposals for ADAMHA grants and cooperative agreements are required to include both women and minorities in study populations for clinical research, unless compelling scientific or other justification for not including either women or minorities is provided. This requirement is intended to ensure that research findings will be of benefit to all persons at risk of the disease, disorder, or condition under study. For the purpose of these policies, clinical research involves human studies of etiology, treatment, diagnosis, prevention, or epidemiology of diseases, disorders or conditions, including but not limited to clinical trials; and minorities include U.S. racial/ethnic minority populations (specifically: American Indians or Alaskan Natives, Asian/Pacific Islanders, Blacks, and Hispanics).

ADAMHA recognizes that it may not be feasible or appropriate in all clinical research projects to include representation of the full array of U.S. racial/ethnic minority populations. However, applicants are urged to assess carefully the feasibility of including the broadest possible representation of minority groups.

Applications should include a description of the composition of the proposed study population by gender and racial/ethnic group, and the rationale for the numbers and kinds of people selected to participate. This information should be included in the form PHS 398 in section 2, A–D of the Research Plan and summarized in section 2, E, Human Subjects.

Applications should incorporate in their study design gender and/or minority representation appropriate to the scientific objectives of the work proposed. If representation of women or minorities in sufficient numbers to permit assessment of differential effects is not feasible or is not appropriate, the reasons for this must be explained and justified. The rationale may relate to the purpose of the research, the health of the subjects, or other compelling circumstances (e.g., if in the only study population available there is a disproportionate representation in terms of age distribution, risk factors, incidence/prevalence, etc., of one gender or minority/majority group).

If the required information is not contained within the application, it will be returned. Peer reviewers will address specifically whether the research plan in the application conforms to these policies. If gender and/or minority representation/justification are judged to be inadequate, reviewers will consider this as a deficiency in assigning the priority score to the application.

All applications/proposals for clinical research submitted to ADAMHA are required to address these policies. ADAMHA funding components will not

award grants that do not comply with these policies.

Eligibility

Applications may be submitted by public or private nonprofit organizations such as universities, colleges, or units of State or local governments.

Application Procedures

Applicants should use the grant application form PHS 398 (Rev. 10/88). The number and title of this Announcement, *MH–91–08, NIMH Center on Housing,* should be typed in item number 2 on the face page of the PHS 398 application form.

Applicants must affix the RFA label available in the 398 kit to the bottom of the face page. Failure to use this label could result in delayed processing of the application such that it may not reach the review committee in time for review. Important—The mailing envelope (including that provided by an express carrier) must be clearly marked, "RFA MH–91–08, NIMH Center on Housing." Applications must be received (not postmarked) by June 24, 1991.

Application kits containing the necessary forms and instructions may be obtained from business offices or offices of sponsored research at most universities, colleges, medical schools, and other major research facilities. If such a source is not available, the following office may be contacted for the necessary application material: Grants Management Branch, National Institute of Mental Health, 5600 Fishers Lane, room 7C–05, Rockville, Maryland 20857, (301) 443–4414.

The signed original and five (5) permanent legible copies of the completed application should be sent to: Division of Research Grants, NIH Westwood Building, room 240, 5333 Westbard Avenue, Bethesda, Maryland 20892.[1]

To facilitate the timely review of your application, it is also requested that one additional copy of the application be sent directly to: Ms. Edna M. Hardy-Hill, Division of Extramural Activities, National Institute of Mental Health, 5600 Fishers Lane, room 9C–15, Rockville, Maryland 20857.

The mailing envelope (including that provided by an express carrier) must also be clearly marked "RFA MH–91–08, NIMH Center on Housing."

Application Characteristics

Applications must be complete and contain all information needed for initial and National Mental Health Advisory Council review. No subsequent addenda will be accepted unless specifically requested by the Scientific Review Administrator of the review committee. The application should be written in a manner that is self-explanatory to objective, outside reviewers who may not be familar with prior related activites of the applicant. The research plan, section 2, A–D, including the additional required information described below, is limited to 20 pages singled-spaced and must contain the necessary informaiton for reviewers to understand the project. Appendices may be attached but must *not* be used to merely extend the narrative; extensive appendices are discouraged.

To ensure that sufficient information is included for scientific and technical merit review, the research plan, section 2, A–D should include the following information:

A. Specific Aims

Discussion of the overall research, dissemination, and technical assistance goals of the Center.

B. Background and Significance

- Discussion of the knowlede base, current service issues and approaches, consumer preferences, informaiton gaps, and technical assistance needs of the field in the area of housing and residential supports and how the Center's activities will address these.
- Discussion of involvement of primary consumers and family members in actiities of the Center.

C. Preliminary Studies

Discussion of previous research, dissemination, and technical assistance efforts that are pertinent to the activities of the proposed center and other information to establish the experience and competence of the principal investigator and key staff.

D. Experimental Design and Methods

This section should contain three subsections, (1) Research objectives, (2) Knowledge Dissemination Plan, and (3) and Technical Assistance Plan.

Research Objectives

- The set of research objectives principal areas of research, and the rationale for selecting these based on public health significance the state of knowledge development, feasibility, and potential impact on improving housing and supports for the population.
- For each research project to be conducted by the Center, discussion of the research issue to be investigated, a brief review of the relevant literature; the methodology for generating, collecting, and analyzing data; staffing; timeframes for anticipated activities; potential research results, and how the individual research projects will interrelate and relate to the other activities of the Center.
- Plans for coordinating the research with the other activities of the Center.
- Where feasible and appropriate for proposed studies, plans to use the data standards recommended by the Mental Health Statistics Improvement Program (MHSIP) as documented in FN–10, *Data Standards for Mental Health Decision Support Systems* (available from the National Institute of Mental, Information Resources and Inquiries Branch, room 15C–07, 5600 Fishers Lane, Rockville, Maryland 20857).

Knowledge Dissemination Plan

- The principal areas of dissemination.
- The sources for obtaining information, e.g., research findings, best practices, literature reviews.
- The individual dissemination projects that the Center will conduct, including for each project a discussion of the information to be disseminated, mechanism for dissemination, intended audience, staffing, timeframes, and potential impact.

Technical Assistance Plan

- The principal areas of technical assistance.
- The technical assistance approaches that the Center will use including a discussion of the specific mechanisms, audience, staffing, timeframes, and potential impact.

Client Safeguards and Protection of Confidentiality

The applicant must satisfactorily address issues regarding protection of confidentiality of the client. If the project will be collecting identifiable information about individual clients or project staff for project evaluation purposes, assurances for protecting client and staff confidentiality and anonymity must be included.

Because of the special sensitivity of conducting research on individuals with severe and persistent mental disorders, applicants must give particular attention to considerations of informed consent, confidentiality, subject rights and welfare, and subject risks.

The grant funded under this announcement is subject to the regulations of 45 CFR 46, Protection of Human Subjects. These can be obtained from: Ms. Anne Cooley, Division of Extramural Activities, National Institute of Mental Health, Parklawn Building,

[1] If an overnight carrier or Express Mail is used, the Zip Code is 20816.

room 9–95, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3367.

Terms and Conditions of Support

Period of Support

Support may be requested for a period of up to 3 years. Annual direct costs are not expected to exceed $250,000 for the first year, while the Center is being established. Depending on the research and other activities to be conducted by the Center, increased direct costs for subsequent years may be requested but should not exceed $350,000 per year. Annual awards will be made subject to continued availability of funds and progress achieved.

Allowable Costs

Applicants must include the following agreement in their applications: "(Applicant) agrees that not more than 10 percent of any resultant grant award will be expended for administrative purposes."

Funds may be requested for core support of the Center and for indivudual research and dissemination projects. Funds may be used only for those expenses that are directly related and necessary to carry out the project, including both direct and allowable indirect costs. Funds may be used to provide technical assistance and consultation to States. Funds may not be requested to support service costs incurred while conducting research projects.

The grant must be administered in accordance with the *PHS Grants Policy Statement* (Rev. October 1, 1990), which should be available from an office of sponsored research. Federal regulations, 45 CFR parts 74 and 92 and 42 CFR part 52, are applicable to this award.

Review Procedures

Applications received under this announcement will be assigned to an Initial Review Group (IRG) in accordance with established PHS Referral Guidelines.

The IRGs, consisting primarily of non-Federal Scientific and technical experts, will review the applications for scientific and technical merit.

Notification of the review recommendations will be sent to the applicant after the initial review. Applications will receive a second-level review by the National Mental Health Advisory Council whose review may be based on policy considerations as well as scientific merit. Only applications recommended for approval by the Council may be considered for funding.

The intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR part 100, are applicable to this program. E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants (other than federally-recognized Indian tribal governments) should contact the State Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each effected State. A current listing of SPOCs is included in the application kit. The SPOC should send any State process recommendations to: Neal Brown, Chief, Community Support Section, System Development and Community Support Branch, Division of Applied and Services Research, National Insitute of Mental Health, Parklawn Building, room 11C–22, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3653.

The due date for State process recommendations is 60 days after the deadline date for receipt of applications. NIMH does not guarantee to accommodate or explain for State process recommendations that are received after the 60-day cut-off date.

Review Criteria

Criteria for scientific and technical merit include:

- Evidence of indepth understanding of current knowledge base, current service issues and approaches, consumer preferences, information gaps, and technical assistance needs of the field in the area of housing and residential supports
- Reflection of community integration and rehabilitation principles and concepts in the proposed research, dissemination, and technical assistance activities of the Center
- Adequacy of the theoretical and conceptual base for the overall plan of research and the specific projects
- Quality, significance, and feasibility of the overall plan of research and the specific projects
- Quality and feasibility of the dissemination plan and evidence of ability of gather and disseminate relevant knowledge and information to the field
- Quality and feasibility of the technical assistance approaches to be used, including evidence of linkages and credibility with State and local mental health agencies, consumers, family members, and relevant national organizations
- Capability and experience of the Center Director, consultants, and other key staff proposed for the project in research, dissemination, and technical assistance in the areas of community integration, housing, and community supports for adults with severe and persistent mental disorders
- Ability of the Center Director and key staff to devote adequate time to coordinate and conduct the proposed activities of the Center
- Adequacy of facilities and environment to conduct the project
- Potential to generate support for additional resources to conduct major research studies or other relevant projects
- Attention to racial, ethnic, and minority population and gender issues and concerns
- Evidence of involvement of consumers and family members in the activities of the Center
- Adequacy of provisions for confidentiality and protection of human subjects
- Appropriateness of budget estimates for the Center

Receipt and Review Schedule

Receipt of applications	Initial review	Council reviews	Earliest start date
June 24, 1991	July 1991	Sept. 1991	Sept. 1991.

Applications received after the above receipt date will not be reviewed and will be returned to the applicant.

Award Criteria

Applications recommended for approval by the appropriate advisory council will be considered for funding on the basis of overall secintific and technical merit of the proposed Center as determined by peer review, program needs and balance, and availability of funds.

For Further Information

Neal Brown, Chief, or Jacqueline Parris, Assistant Chief, Community Support Section, System Development and Community Support Branch, Division of Applied and Services Research, National Institute of Mental Health, Parklawn Building, room 11C–22, 5600 Fishers Lane, Rockvile, Maryland 20857, (301) 443–3653.

(Catalogue of Federal Domestic Assistance 93.125)

Joseph R. Leone,

Associate Administrator for Management, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 91–10075 Filed 4–29–91; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

[BPD–632–FN]

Medicare Program; Withdrawal of Coverage of Certain Investigational Intraocular Lenses

AGENCY: Health Care Financing Administration (HCFA) and the Office of Inspector General (OIG), HHS.

ACTION: Final notice.

SUMMARY: This notice announces the withdrawal of Medicare coverage for certain investigational intraocular lenses (IOLs). Medicare coverage of IOLs that have received approval by the Food and Drug Administration (FDA) will continue to be covered by Medicare, as well as certain other IOLs that are awaiting FDA approval.

EFFECTIVE DATE: This notice is effective May 30, 1991.

FOR FURTHER INFORMATION CONTACT: Sam DellaVecchia, 301–966–5316.

SUPPLEMENTARY INFORMATION:

I. Background

A. Medicare Program: Introduction

The Medicare program was established by Congress in 1965 with the enactment of title XVIII of the Social Security Act (the Act). The program provides payment for certain medical services and supplies for persons 65 years of age or over, disabled beneficiaries, and persons with end-stage renal disease. The program currently covers approximately 29.4 million aged, 3 million disabled individuals, and 130,000 persons with end-stage renal disease.

The Medicare program consists of two separate but complementary insurance programs, a Hospital Insurance program (known as Part A) and a Supplementary Medical Insurance program (known as Part B). Although Part A is called Hospital Insurance, covered benefits also include medical services furnished in skilled nursing facilities (SNFs) or by home health agencies (HHAs) and hospices. For purposes of the Medicare program, we refer to these entities as "providers." These providers must be certified as qualified providers of services and must sign an agreement to participate in the program. Part B covers a wide range of medical services and supplies such as those furnished by physicians, providers, or others in connection with physicians' services, outpatient hospital services, outpatient physical therapy and occupational therapy services, ambulatory surgical centers (ASCs), and home health services. Physicians' services covered under Part B include visits to patients in the home, office, hospital, and other institutions. Part B also covers certain drugs and biologicals, diagnostic x-ray and laboratory tests, purchase or rental of durable medical equipment, ambulance services, prosthetic devices, and certain medical supplies.

The Medicare program was not designed to cover the total cost of providing medical care for its beneficiaries. Under current law, beneficiaries are liable for specified cost-sharing charges, in the form of deductibles and coinsurance amounts, and the cost of the first 3 pints of whole blood (unless replacement blood is furnished). Part B of Medicare generally pays 80 percent of the reasonable charge for physicians and other covered medical services (including drugs used in immunosuppressive therapy furnished within 1 year of a covered organ transplant) after the beneficiary has met the $75 deductible. The beneficiary is then liable for the remaining 20 percent of the reasonable charge (coinsurance). In addition, if a physician does not accept assignment (that is, does not agree to accept Medicare's determinaton of the reasonable charge amount as payment in full for covered services), the beneficiary is liable for the difference between Medicare's reasonable charge and the physician's actual charge, subject to certain limits on that charge.

While the Medicare law does not provide an all-inclusive list of specific items, services, treatments, procedures, or technologies that should be covered by Medicare, it does vest in the Secretary the authority to make coverage decisions based on section 1862(a)(1)(A) of the Act. Specifically, section 1862(a)(1)(A) of the Act states that Medicare payment may not be made for any expense incurred For items or services that are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member. It making national coverage decisions, HCFA interprets the terms "reasonable" and "necessary" contained in section 1862(a)(1)(A) of the Act to mean that a service is safe, effective, non-investigational, and appropriate as evidenced by available scientific and medical information. We published a proposed rule on January 30, 1989 (54 FR 4302) that would establish in regulations generally applicable criteria and procedures for determining whether a service is "reasonable" and "necessary" under the Medicare program, and to set forth the coverage decisionmaking process that we propose to include in regulations.

B. The Cause and Need for Intraocular Lenses

Medical information indicates that the loss of visual acuity is part of the normal aging process. It has been estimated that in the U.S., 92 percent of people 65 years of age and over have subnormal binocular visual acuity in need of correcting, as compared with 46 percent of the general adult population. Thus, almost all people over age 65 need eyeglasses or some other means to enhance their vision.

With each year of life, the lens of the eye loses some of its elasticity, decreasing the amount of accommodation, most notably for near vision. The optical condition of decreased accommodation is known as presbyopia, which occurs in all individuals, irrespective of their refractive error, and results in an inability to see near work distinctly. This is aggravated in dim illumination and with small print and is treated by means of convex lenses added to the distance correction if such is needed. The absence of the crystalline lens (that is, aphakia), whether due to surgical removal, trauma or disease, causes a severe loss of accommodation (the ability to focus visual images in the retina). The chief symptom is a decrease in both far and near vision. Aphakia may be corrected by means of cataract spectacle lenses, contact lenses, or intraocular lens (IOL) implants.

IOLs are used to replace the lens of the eye. Generally, an IOL is inserted during the same operative procedure when the natural lens of the eye is removed. IOLs seldom need to be replaced, and are usually inserted on an outpatient basis.

C. Current Medicare Coverage for Intraocular Lenses

Section 1861(s)(8) of the Act provides for Part B coverage of prosthetic devices (other than dental) that replace all or part of the function of a permanently inoperative or malfunctioning internal body organ when furnished on a physician's order. Under Medicare policy, the term "internal body organ" includes the lens of the eye. Thus, Medicare covers prosthetic lenses when required by an aphakic individual; that is, an individual lacking the natural lens of the eye because of surgical removal or congenital absence. Current Medicare coverage extends to IOLs, including IOLs considered investigational by the Food and Drug Administration (FDA) as explained below.

Under our program operating guidelines contained in section 65–7 of the Medicare Coverage Issues Manual (HCFA Pub. 6), IOLs, inlcuding investigational ones, are currently covered by Medicare when furnished to aphakic patients. Coverage of investigational IOLs has been an exception to the general rule that Medicare payment may only be made for medical devices that have received FDA approval for marketing.

D. Medical Device Amendments of 1976

Under section 520(g) of the Medical Device Amendments of 1976 (Pub. L. 94–295), Congress directed FDA to collect safety and effectiveness data on certain devices and to decide whether they should be approved for general marketing. Specifically, Congress directed FDA to ensure that IOLs continue to be "reasonably available" to qualified investigators (that is, surgeons who agreed to review IOLs) and patients while FDA reviewed the data that firms collected and made approvals concerning which IOLs should be marketed. (Although IOLs were already widely used, they did not yet have FDA approval.)

To respond to the congressional directive, FDA allowed a dual investigational system involving a small number of intensively studied "core" patients and a larger number of less intensively studied "adjunct" patients. Core studies were traditional, well-controlled clinical investigations with full recordkeeping and reporting requirements intended to establish the basic safety and effectiveness of the IOLs. Adjunct studies were investigations, following core studies, that simply collected data on infrequently-occurring complications (which could be detected only in the larger adjunct study populations). These IOLs, which were the objects of these adjunct studies, are, in some instances, only slightly different from an already approved IOL. Under adjunct studies, manufacturers were able to distribute investigational IOLs without the numerical limits that usually apply to investigational devices.

IOLs have been in use since 1949. By the enactment date of Public Law 94–295 in 1976, their use was widely accepted medical practice. Although IOLs lacked full FDA approval, they were under close review and study by the FDA.

Under the standard premarket approval process, FDA determines the safety and effectiveness of a device by "weighing any probable benefit to health from the use of the device against any probable risk of illness or injury from such use." The FDA determines effectiveness "on the basis of well-controlled investigations, including clinical investigations where appropriate, . . . from which investigations it can fairly and responsibly be concluded by qualified experts that the device will have the effect that it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling of the device."

When the adjunct studies began, there was some routine reporting of patient data. This routine reporting was later discontinued. Some lens models, which were minor variations of other investigational models, were not required to undergo core studies and were allowed to be distributed under adjunct studies alone.

Because the elderly are the recipients of most IOL insertions, the congressional mandate to make IOLs "reasonably available" affected directly the Medicare population. To allow for the use of IOLs by Medicare beneficiaries, Medicare policy was revised to permit coverage of lenses that were being studied by FDA but for which full market approval had not been granted. In accordance with this revised policy, section 65–7 of the Medicare Coverage Issues Manual (HCFA Pub. 6) established instructions to permit payment for investigational IOLs. Coverage of investigational IOLs has been the only exception to the longstanding Medicare policy that requires FDA approval of medical devices before considering Medicare coverage of a device.

Over time, the number of patients receiving IOLs under adjunct status has burgeoned and the assortment of IOL models has proliferated. In 1987, FDA embarked on a three-stage plan for phasing out the use of adjunct studies. During the first two stages, FDA accelerated reviews of pending IOL applications in order to maximize the supply of FDA-approved lenses, after which the initiation of new adjunct investigations was stopped.

Under the third and final phase, IOL manufacturers wishing to continue adjunct studies for given models into 1989 were required to submit premarket applications (PMAs) for those models to FDA before January 1, 1989. If a manufacturer failed to submit a PMA, or if an application was grossly deficient, the manufacturer was precluded from continuing the adjunct study in 1989.

Also, under this final FDA phase-out plan, a manufacturer precluded from conducting an adjunct study in 1989 could have been allowed to continue its ongoing IOL study under a "modified core" program. Unlike the IOLs in an adjunct study, which have a PMA under review for approval with no limit on distribution, the IOLs under a modified core program have restrictions on numbers of allowable lens insertions, and they are subject to some mandatory reporting of data.

Since 1976, FDA has approved for marketing approximately 900 IOL models, most of which are currently available. Many more IOLs are expected to be fully approved in the near future.

On May 23, 1990, we published a notice in the **Federal Register** (55 FR 21250) that proposed withdrawal of Medicare coverage of certain investigational IOLs. That notice provided a 60-day public comment period.

II. Provisions of the Proposed Notice

In the proposed notice we stated our belief that we achieved congressional intent of Public Law 94–295 to maintain the availability of IOLs while IOL manufacturers sought FDA approval for marketing. Since 1976 FDA has approved approximately 900 IOL models with many more expected to be fully approved in the future. The 900 FDA-approved IOLs provide an ample supply to warrant reverting to our longstanding policy of covering only medical devices that have been approved for marketing by the FDA and that are determined to meet the reasonable and necessary criteria in section 1862(a)(1)(A) of the Act.

As proposed, this change in policy would not have a significant effect on current payment for IOL insertions performed in an inpatient hospital setting. Payment for inpatient hospital services are governed by the prospective payment system (see 42 CFR part 412). Under this system, Medicare payment is

made at a predetermined, specific rate for each hospital discharge. All discharges are classified according to a list of diagnosis-related groups (DRGs). All patients who receive an IOL are assigned to DRG 39, Lens Procedures with or without Vitrectomy. The IOL procedures that are assigned to DRG 39 are (1) Insertion of an IOL at the time of a cataract extraction, one stage and (2) secondary insertion of an IOL. If a patient is admitted to have a cataract removed and an investigational (noncovered) IOL is inserted, we proposed that the hospital would receive a full DRG payment because a cataract removal (a covered service) was performed in addition to the insertion of the noncovered IOL. If a patient whose cataract had been removed previously were admitted for the sole purpose of having an investigational IOL inserted, we proposed that the entire admission would be noncovered and no payment would be made to the hospital.

Cataract removal and IOL insertion are done primarily on an outpatient basis (including in ASCs). If an IOL is inserted on an outpatient basis, we proposed to pay for the cataract extraction but not for the insertion of an investigational IOL or the investigational IOL itself. Any secondary insertion of an investigational IOL would be noncovered, that is, there would be no payment to the surgeon or the facility.

Medicare-participating ASCs are paid a prospectively determined standard overhead amount for facility services furnished in connection with covered surgical procedures performed in the facility. These same ASC rates are used, in part, when determining the aggregate amount of payment for covered ASC procedures performed on a hospital outpatient basis. The aggregate amount of payment for facility services furnished by a hospital in connection with covered ASC procedures is based on a comparison of two amounts. That is, Medicare pays the lesser of one of the following amounts:

(1) An amount equal to the hospital's reasonable costs or customary charges (whichever is lower and which has been reduced by the applicable deductibles and coinsurance).

(2) An amount based on a blend of 50 percent of the hospital's reasonable costs or customary charges (whichever is lower and which has been reduced by the applicable deductibles and coinsurance), and 50 percent of an amount equal to 80 percent of the standard overhead amount for ASC facility services, which has been reduced by the applicable deductibles.

Section 4063(b) of the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100-203, enacted December 22, 1987) amended section 1833(i)(2)(A) of the Act. As amended, section 1833(i)(2)(A) of the Act requires that payment for an IOL inserted in an ASC during or subsequent to an approved cataract procedure be included in the facility payment rate effective with services furnished after June 30, 1988.

Therefore, in a hospital outpatient or an ASC setting, the payment for an approved IOL is incorporated into the facility rate for the following three approved IOL procedures expressed in Physicians' Current Procedural Terminology, Fourth Edition codes (commonly referred to as CPT-4 codes):

CPT-4	Description
66983	Intracapsul cataract extraction with insertion of IOL prosthesis (one-stage procedure).
66984	Extracapsular cataract removal with insertion of IOL prosthesis, manual or phacoemulsification technique (one-stage procedure).
66985	Insertion of IOL subsequent to cataract removal (separate procedure).

If a remval of lens material is performed on a Medicare beneficiary and an investigational IOL that is not in the adjunct phase is inserted, we proposed to pay the facility for the removal of the lens material. The facility would be paid in accordance with one of the following CPT-4 codes.

CPT-4	Description
66840	Removal of lens material; aspiration technique (one or more stages).
66850	Removal of lens material; phacofragmentation technique (mechanical or ultrasonic, e.g., phacoemulsification), with aspiration (one or more stages).
66915	Expression of lens, linear (one or more stages).
66920	Extraction of lens with or without iridectomy; intracapsular, with or without enzymes.
66930	Extraction of lens with or without iridectomy; intracapsular,for dislocated lens.
66940	Extraction of lens with or without iridectomy; extracapsular, (other than 66840, 66850, 66915).

If CPT-4 code 66985 is performed on a beneficiary and an investigational IOL that is not in the adjunct phase is inserted, under the proposed notice, we would not cover the procedure and there would be no Medicare payment to the facility or the surgeon.

We proposed to phase out payment for investigational IOL models by no longer paying for core and modified core classified IOLs because these IOLs require more intensive studies to obtain FDA approval. Payment would continue for those IOL models in the adjunct study until those are also phased out by the FDA. This would occur as FDA completes its review of the PMA and either approves or disapproves those IOL models. At that time, Medicare payment for adjunct lenses would also cease and we would have ceased paying for any investigational IOLs.

III. Summary and Analysis of Comments

We received comments from seven sources: three manufacturers, two professional organizationss and two individuals. The commenters presented varying degrees of concern that the proposal would deter funding for research and development of new IOLs. Specific comments addressed: disincentive for ophthalmologists to participate in clinical trials, stymied economic growth, reduction of research and development funds, reduction in tax base of research and development, decline of employment and loss of the United States' lead in technology development.

We believe comments regarding diminished research and development because Medicare will eventually no longer pay for investigational IOLs are not sufficiently convincing to justify perpetual payment for those IOLs considered by the FDA to be investigational. It was never our intent that Medicare payment for investigational IOLs serve as a subsidy for the research and development of new IOLs. Rather we were simply responding to a congressional mandate that enough IOLs be available. To accomplish this, we made an unusual exception in general Medicare policy to allow payment for those IOLs already developed but not yet fully approved by FDA. As earlier stated, we now believe IOLs are reasonably available. Thus, regarding IOLs, we are attempting to gradually return to our general longstanding policy that precludes payment for investigational devices since their safety and efficacy have not been established.

With respect to the other economic issues addressed by the commenters, and as stated later in this notice, we do not believe discontinuation of payment of investigational IOLs will significantly affect beneficiaries nor do we see it having a substantially adverse affect on ophthalmologists, hospitals, ambulatory surgical centers, or manufacturers. Under our goal to pay for only those items and services considered to be reasonable and necessary, we believe it is in the best interest of the Medicare population to eventually withdraw all

coverage of investigational IOLs. Therefore, we cannot accept the commenters' recommendations.

Additional concerns expressed by commenters and our responses follow:

Comment: Three commenters were concerned about decreased payment to ASCs. They pointed out that facility costs are the same, regardless of the type of IOL inserted. One believes the proposed payment plan is arbitrary, inconsistent, and unfair, particularly in light of the fact that the fee for inpatient hospital insertions would not be affected.

Response: As explained in section V below, section 1833(i)(2)(A) of the Act requires that payment for IOLs be incorporated into the facility rate in a hospital outpatient or ASC setting. Thus, we can identify costs when investigational IOLs that are not covered under Medicare are inserted in an outpatient setting. We are not able to make this determination when IOLs are inserted in the inpatient setting because its prospective payment system is based on diagnosis related groups (DRGs), which do not itemize facility costs.

Comment: Two commenters questioned whether Medicare would decrease payment to an ophthalmologist surgeon who participates in a core study program and who inserts an investigational IOL.

Response: The surgeon who inserts an investigational IOL following cataract extraction would report the procedure using CPT–4 code 66840, 66850, 66915, 66920 or 66930. Generally these are codes that indicate removal of a cataract without the insertion of an approved IOL in the same procedure. According to the most recent data, the average allowed charges for these procedures appear to be less than CPT–4 code 66983 or 66984 (removal of a cataract with an approved IOL insertion in the same procedure). Insertion of an investigational IOL subsequent to cataract removal (separate payment) results in no surgical fee payment.

Comment: Two commenters objected to the use of "obsolete codes". One commenter mentioned that cataract extractions and IOL insertions have been coded as global procedures (CPT–4 66983 or 66984) for 5 years and that our suggested use of other codes is not appropriate. The other commenter stated that infrequent use of alternate code means the fee profile data may be unreliable.

Response: While it is true that fewer and fewer claims for CPT–4 codes 66840, 66850, 66915, 66920, 66930 and 66940 (generally removal of a cataract without the insertion of an approved IOL in the same procedure) are submitted, this can be explained by the more frequent use of CPT–4 codes 66983 and 66984 (removal of a cataract with an approved IOL insertion in the same procedure). More IOLs are inserted now than in earlier times when high strength spectacles rather than IOLs were prescribed to attain acceptable vision following cataract removal. The six codes in question, however, are still valid codes. We do not anticipate the volume of continued use of investigational IOLs to be such that the use of these six codes would be problematic.

Comment: One commenter pointed out that for each IOL approval, the FDA requires 20 physicians to each insert 25 IOLs into a total of 500 patients. The commenter believes payment for modified core lenses should be continued in order not to disrupt ongoing studies.

Response: Requiring each of 20 ophthalmologists to insert 25 investigational IOLs into a total 500 patients in order to obtain FDA approval, does not appear to be particularly burdensome considering the large number of procedures performed annually (that is, over 1,200,000 from February 1, 1989 to January 31, 1990). Therefore, we do not believe paying only for IOLs that have FDA approval will be particularly disruptive to ongoing studies.

IV. Provisions of This Final Notice

We will phase out payment for investigational IOL models by no longer paying for core and modified core classified IOLs. Payment will continue for those IOL models in the adjunct study until those are also phased out by FDA. At that time, Medicare payment for adjunct lenses will also cease and we will no longer pay for any investigational IOL. If it is medically necessary for a patient to be admitted to a hospital to have a cataract removal (a covered service), and at the time of the surgery an investigational IOL (a noncovered service) is inserted, the hospital will receive a full DRG payment. This payment allowance stems from the fact that the primary admission to the hospital was to receive a covered service; that is, a cataract removal. On the other hand, if a patient whose cataract had been removed previously was admitted to the hospital for the sole purpose of having an investigational IOL inserted, then no payment will be made to the hospital because the primary admission was to receive a noncovered service and thus, the entire admission would be noncovered.

If an IOL is inserted on an outpatient basis, payment will be made for the cataract extraction but not for the insertion of an investigational IOL or the investigational IOL itself. Any secondary insertion of an investigational IOL will be noncovered, that is, there will be no payment to the surgeon or the facility.

Medicare-participating ASCs are paid a prospectively determined standard overhead amount for facility services furnished in connection with covered surgical procedures performed in the facility. These same ASC rates are used, in part, when determining the aggregate amount of payment for covered ASC procedures performed on a hospital outpatient basis. The aggregate amount of payment for facility services furnished by a hospital in connection with covered ASC procedures is based on a comparison of two amounts. That is, Medicare will pay the lesser of one of the following amounts: (1) An amount equal to the hospital's reasonable costs or customary charges (whichever is lower and which has been reduced by the applicable deductibles and coinsurance); or (2) an amount based on a blend of 50 percent of the hospital's reasonable costs or customary charges (whichever is lower and which has been reduced by the applicable deductibles and coinsurance), and 50 percent of an amount equal to 80 percent of the standard overhead amount for ASC facility services, which has been reduced by the applicable deductibles.

In accordance with section 1833(i)(2)(A) of the Act, the payment for an approved IOL inserted in a hospital outpatient or an ASC setting is incorporated into the facility rate for the following three approved IOL procedures appearing in the Physicians' current Procedural Terminology, Fourth Edition codes (commonly referred to as CPT–4 codes):

CPT code	Description
66983	Intracapsular cataract extraction with insertion of IOL prosthesis (one-stage procedure).
66984	Extracapsular cataract removal with insertion of IOL prosthesis, manual or phacoemulsification technique (one-stage procedure).
66985	Insertion of IOL subsequent to cataract removal (separate procedure).

If a removal of lens material is performed on a Medicare beneficiary and an investigational IOL that is not in the adjunct phase is inserted, the facility will be paid only for the removal of the lens material. The facility will be paid in accordance with one of the following CPT–4 codes:

CPT code	Description
66840	Removal of lens material; aspiration technique (one or more stages).
66850	Removal of lens material; phacofragmentation technique (mechanical or ultrasonic, e.g., phacoemulsification), with aspiration (one or more stages).
66915	Expression of lens, linear (one or more stages).
66920	Extraction of lens with or without iridectomy, intracapsular, with or without enzymes.
66930	Extraction of lens with or without iridectomy, intracapsular, for dislocated lens.
66940	Extraction of lens with or without iridectomy; extracapsular (other than 66840, 66850, 66915).

If CPT–4 code 66985 is performed on a beneficiary and an investigational IOL that is not in the adjunct phase is inserted, the procedure will not be covered and there will be no Medicare payment to the facility or the surgeon.

We could have withdrawn Medicare payments after a number of IOLs has been approved by FDA and IOLs would have been considered "reasonably available". We preferred to coordinate Medicare policy with FDA procedures to ensure that we fulfilled the obligation to make IOLs "reasonably available". We do not believe that manufacturers will be unreasonably disadvantaged by the policy described in this notice. Many manufacturers of IOLs in the core study are the same manufacturers that have gained FDA approval of other IOLs. In addition, manfacturers have had since 1987 to prepare for the FDA phase-out of adjunct studies and ample time to meet the December 31, 1988 application deadline for extension of ongoing adjunct status.

V. Regulatory Impact Statement

A. Executive Order 12291

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for any final notice that meets one of the E.O. criteria for a "major rule"; that is, that will be 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
- 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

This final notice will result in Medicare no longer covering or paying for certain IOLs that are considered investigational by the FDA. Under Public Law 94–295, Congress directed FDA to ensure that IOLs, which were already in wide use, continue to be "reasonably available" to qualified investigators and patients. The purpose was to allow safety and effectiveness data to be collected in order for FDA to decide whether particular models of IOLs should be approved for general marketing. However, the availability of IOLs is markedly different today. There are approximately 900 fully approved IOL models available, and under the FDA revised approval policy, more are expected to be fully approved in the near future. Thus, the mandate to make IOLs reasonably available has been met and there is no valid or compelling need to retain the special exception to the general Medicare rule that payment may not be made for any medical device that has not received FDA approval for marketing. However, Medicare will continue to pay for IOLs under FDA investigational "adjunct" status as of January 1, 1989, provided the IOL manufacturers have filed PMAs by December 31, 1988, and meet other conditions specified by the FDA and HCFA.

Cataract surgery is a common surgical procedure covered by Medicare. Because cataract surgery is performed primarily on the elderly, Medicare pays for about 80 percent of all cataract operations. ("Medicare Reimbursement for Cataract Surgery Hearing Before the Subcomm. on Health of the House Comm. on Ways and Means", 99th Cong., 1st Sess. 121 (1985)). In 1985, 90 percent of all cataract surgery included on IOL insertion (Ibid at 119). In 1987, Medicare paid Part B providers a total of approximately $83.5 million for 257,000 IOLs. The average payment for an anterior chamber lens was $302, the average for a posterior chamber lens was $330. We do not have data concerning the breakdown of payment between investigational and approved lenses.

Because we have no data available that will allow us to estimate the number and cost of IOLs that will be eliminated, we are not able to prepare an estimate of the Medicare program cost or savings. We do not expect that program cost or savings will change significantly because we anticipate that approved IOLs will be used in place of investigational IOLs.

Discontinuation of coverage and payment for investigational IOLs will not significantly affect beneficiaries because FDA approved IOLs are readily available by type and quantity for physicians to use when performing cataract surgery on Medicare patients. We believe that this final policy will not affect the continued availability of safe and effective IOLs.

We do not have data on the effect of this policy on IOL manufacturers. However, any effect will be dependent upon their sales of investigational lenses, whether or not they seek to obtain FDA approval of their investigational lenses, and how quickly FDA approval is obtained. When FDA embarked upon its plan to phase out adjunct studies of IOLs in 1987, reviews of pending IOL applications were accelerated in order to maximize the supply of FDA-approved lenses. Therefore, we believe that many IOLs that were investigational will be approved by the effective date of this notice that implements this policy.

For the reasons discussed above, we believe this Final notice does not meet the $100 million criterion nor does it meet the other E.O. 12291 criteria. Therefore, we have determined that this final notice is not a major rule under E.O. 12291, and a regulatory impact analysis is not required.

B. Regulatory Flexibility Act

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a final notice will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all physicians and manufacturers of IOLs are treated as small entities.

We did not receive any comments on the impact statement in the proposed notice that have caused us to alter or revise the provisions of the proposed notice. Thus, the effects of this final notice are expected to be the same as those presented in the initial impact statement.

We believe this notice will affect only those ophthalmologists who have been extensively inserting investigational IOLs. It is anticipated that these physicians will revise their practice and begin using primarily only approved lenses for their Medicare patients because Medicare will no longer pay for certain unapproved, investigational IOLs.

As stated above, we do not have data to indicate the number of manufacturers of investigational IOLs nor the extent to which manufacturers produce investigational IOLs. We expect that this notice will affect those

manufacturers that have significant sales of investigational IOLs. However, we do not believe that a significant number of manufacturers produce primarily only investigational IOLs. Thus, we believe that this final policy will not significantly affect the total revenues of most IOL manufacturers because full coverage and payment will continue for approved models. In addition, certain investigational models will continue to be covered reducing the effect of this notice.

Thus, we have determined, and the Secretary certifies, that this notice will not have a significant economic impact on a substantial number of small entities. Therefore, we have not prepared a regulatory flexibility analysis under the RFA.

Section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a final notice may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital with fewer than 50 beds located outside of a Metropolitan Statistical Area.

We are not preparing a rural impact statement since we have determined, and the Secretary certifies, that this final notice will not have a significant economic impact on the operations of a substantial number of small rural hospitals.

VI. Information Collection Requirements

This final notice will not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.)

Authority: Section 1862 of the Social Security Act (42 U.S.C. 1395y).

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: January 20, 1991.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

Approved: March 27, 1991.

Louis W. Sullivan,

Secretary.

[FR Doc. 91-10134 Filed 4-29-91; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-030-01-4212-11;WYW-122472]

Realty Action; Lease and Sale for Recreation and Public Purposes; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action; recreation and public purposes classification and application for lease and sale in Albany County.

SUMMARY: The following public lands in Albany County, Wyoming have been examined and found suitable for classification for and/or lease conveyance to the University of Wyoming, Department of Physics and Astronomy under provisions of the Recreation and Public Purposes Act, as amended, 43 U.S.C. 869 et seq.

6th Principal Meridian

T. 13 N., R. 77 W.,
Section 13: Lots 1, 2, 3 NE¼NE¼, NW¼ SE¼NE¼, S½SE¼NE¼, E½SE¼.

The above land consists of approximately 240 acres more or less.

FOR FURTHER INFORMATION CONTACT: Marilyn Nickerson, Realty Specialist, Great Divide Resource Area, Bureau of Land Management, 812 E. Murray St./P.O. Box 670, Rawlins, Wyoming 82301, 307-324-4841.

SUPPLEMENTARY INFORMATION: The purpose of the classification and application for lease and sale of these lands is for the University of Wyoming, Department of Physics and Astronomy to construct, operate and maintain a visitor center, helipad, hiking trail, picnic/camping spots and future additional telescope sites for public recreation and education. The developments will include a gate to restrict unscheduled vehicle access from the visitor center to the observatory summit (¼ mile) to reduce vehicle-raised dust which is contaminating the very expensive telescope optics. A sign at the gate will describe procedures for tours. The existing road and the hiking trail will allow unimpeded foot travel to the summit; safety zones will be established around existing and proposed facilities restricting firearm use to protect life and property.

The lease and eventual sale will contain reservations to the United States for ditches, canals; and will be subject to all existing reservations and prior rights. The proposed lease and sale is consistent with the Great Divide Resource Management Plan. The land is not needed for Federal purposes.

Upon publication of this notice in the Federal Register, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Pubic Purposes Act.

For a period of 45 days from the date of publication of this notice, interested persons may submit comments regarding the proposed lease/conveyance or classification of the lands to the District Manager, Rawlins District Office, P.O. Box 670, Rawline, WY 82301. Any adverse comments will be rviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publicaton of this notice.

Date Signed: March 8, 1991.

Bud Holbrook,

Acting District Manager.

[FR Doc. 91-10129 Filed 4-29-91; 8:45 am]

BILLING CODE 4310-22-M

[ID-942-01-4730-12]

Idaho: Filing of Plats of Survey; Idaho

The plats of the following described land were officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., April 3, 1991.

The supplemental plat prepared to show a change in lottings in section 20, T. 4 S., R. 46 E., Boise Meridian, Idaho, was accepted March 28, 1991.

This plat was prepared to meet certain administrative needs of the U.S. Forest Service.

The plat representing the dependent resurvey of a portion of the subdivisional lines and the subdivision of section 26, T. 8 N., R. 1 W., Boise Meridian, Idaho, Group No. 806, was accepted, April 1, 1991.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the survey of the above described lands must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: April 22, 1991.

Robert H. Thompson,

Acting, Chief Cadastral Surveyor For Idaho.

[FR Doc. 91-10130 Filed 4-29-91; 8:45 am]

BILLING CODE 4310-GG-M

National Park Service

Information Collection Submitted for Review under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget, Paperwork Reduction Project (12024–0050), Washington, DC 20503, telephone 202–395–7340.

Title: Special Park Uses.

Abstract: The National Park Service (NPS) issues permits implementing provisions of agency regulations pertaining to the use of public lands (OMB Control #1024–0026). Form 10–114, Special Use Permit, is the primary form used to document certain privileges, benefits and other special uses of the public lands and waters it administers that are allowed various persons, organizations or agencies, but that are not equally available to all members of the general public. Use of this single permit is intended to streamline and reduce the costs to the Government of administering NPS information collection programs through elimination of numerous separate single-purpose permits. Use of the permit will also reduce significantly the information collection burden on affected persons through the use of a standardized and timesaving checklist format.

Bureau Form Number: None.

Frequency: On Occasion.

Description of Respondents: Individuals, organizations, or agencies.

Estimated Completion Time: .28 hours.

Annual Responses: 496,944.

Annual Burden Hours: 137,693.

Bureau Clearance Officer: Russell K. Olsen, 202–523–5133.

Russell K. Olsen,

Information Collection Clearance Officer.

[FR Doc. 91–10104 Filed 4–29–91; 8:45 am]

BILLING CODE 4310–70–M–M

General Management Plan, Environmental Impact Statement, Bent's Old Fort National Historic Site, CO

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of intent to prepare an environmental impact statement for the General Management Plan, Bent's Old Fort National Historic Site.

SUMMARY: Under the provisions of the National Environmental Policy Act, the National Park Service is preparing an environmental impact statement for the General Management Plan for Bent's Old Fort National Historic Site.

The effort will result in a comprehensive general management plan that encompasses preservation of natural and cultural resources, visitor use and interpretation, roads, and facilities. In cooperation with local interests, attention will also be given to resources outside the boundaries that affect the integrity of the cultural landscape. Alternatives to be considered include no-action, the proposal, and other feasible options.

Major issues include evaluation of alternative access to the historic site; facilities for visitor orientation and comfort, and for park administrative, maintenance, and curatorial functions; the interpretive program, media, and facilities; and preservation or restoration of the cultural landscape and historic scene.

A scoping brochure has been prepared that details the issues identified to date. Copies of that information can be obtained from the Superintendent, Bent's Old Fort National Historic Site.

FOR FURTHER INFORMATION: Contact Superintendent, Bent's Old Fort National Historic Site (719) 384–2596.

Dated: April 11, 1991.

Richard A. Strait,

Acting Regional Director, Rocky Mountain Region.

[FR Doc. 91–10096 Filed 4–29–91; 8:45 am]

BILLING CODE 4310–70–M

Comprehensive Management Plan/ Environmental Impact Statement for City of Rocks National Reserve, ID

AGENCY: National Park Service, Interior.

ACTION: Notice of intent to prepare an environmental impact statement for the Comprehensive Management Plan for the City of Rocks National Reserve, ID.

SUMMARY: The National Park Service will prepare an environmental impact statement to assess the impacts of alternative management concepts for a comprehensive management plan for City of Rocks National Reserve. The purpose of a comprehensive management plan is to set forth the basic management philosophy for an area and provide the strategies for addressing issues and achieving identified management objectives. The plan will describe strategies for managing natural and cultural resources and for providing for appropriate visitor use and interpretation of those resources. Based on the strategies for resource management and visitor use and interpretation, the plan will identify programs, actions and support facilities necessary for efficient park operation and visitor use. The plan will also identify those areas and zones within the reserve which would most appropriately be devoted to historic and natural preservation, public use and development and private use subject to appropriate local ordinances designed to protect the historic rural setting. A range of alternatives will be formulated to evaluate distinct approaches to management of the area. For example, one alternative could emphasize preservation of natural and cultural resources; another could suggest a balance between preservation and visitor use. A "no action" alternative will be included. Other alternatives that may emerge from public comment will be considered. As a conceptual framework for formulating these alternatives, the reserve's purposes, significant resources, major interpretive themes, and the NPS's management objectives will first be identified.

Persons who may be interested in or affected by the proposed plan/EIS are invited to participate in the scoping process by responding to this Notice with written comments. The scoping process will help define issues and concerns involving natural and cultural resources as well as social and economic impacts. Representatives from Federal, State, and local agencies have provided some input during preliminary scoping. The NPS also held nine public meetings and distributed mail-in public response forms and received many written and oral comments. No additional scoping meetings are anticipated. Analysis of public comment and other data is expected to result in the preparation of a draft plan and environmental impact statement by the Summer of 1992. The final plan, environmental statement and Record of

Decision are expected to be completed approximately one year later.

The responsible official is Charles H. Odegaard, Regional Director, Pacific Northwest Region, National Park Service.

DATES: Written comments about the scope of issues and alternatives to be analyzed in the plan/environmental impact statement should be received no later that July 1, 1991.

ADDRESSES: Written comments concerning the plan/EIS should be sent to the Superintendent, City of Rocks National Reserve, 963 Blue Lakes Boulevard, suite 1, Twin Falls, Idaho 83301.

FOR FURTHER INFORMATION CONTACT: Superintendent, City of Rocks National Reserve, at the above address or at telephone number (208) 733–8398.

Dated: April 15, 1991.

Charles H. Odegaard,

Regional Director, Pacific Northwest Region, National Park Service.

[FR Doc. 91–10101 Filed 4–29–91; 8:45 am]

BILLING CODE 4310–70–M–M

General Management Plan, Environmental Impact Statement, Fort Laramie National Historic Site, WY

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of intent to prepare an environmental impact statement for the General Management Plan, Fort Laramie National Historic Site.

SUMMARY: Under the provisions of the National Environmental Policy Act, the National Park Service is preparing an environmental impact statement for the General Management Plan for Fort Laramie National Historic Site.

The planning effort will result in a comprehensive general management plan encompassing the preservation of natural and cultural resources, visitor use and interpretation, roads, and facilities. In cooperation with the Bureau of Land Management and the State of Wyoming, attention will also be given to resources outside the boundaries that affect the integrity of the historic site. A full range of alternatives will be considered to address issues identified during the planning process including a no-action alternative. A development concept plan and interpretive prospectus will also accompany the document.

Major issues currently identified included visitor orientation; interpretation; surrounding landscape values, adjacent lands, and uses; visitor services, administrative, operational, and maintenance requirements; and resource protection needs.

A scoping brochure is being prepared that explains issues currently identified in more detail. Copies can be obtained from Superintendent, Fort Laramie National Historic Site, Fort Laramie, Wyoming 82212.

FOR FURTHER INFORMATION: Contact Superintendent, Fort Laramie National Historic Site, Fort Laramie, Wyoming 82212, (307) 837–2221.

Dated: April 18, 1991.

Lorraine Mintzmyer,

Regional Director, Rocky Mountain Region.

[FR Doc. 91–10097 Filed 4–29–91; 8:45 am]

BILLING CODE 4310–70–M

Environmental; Grant

General Management Plan, Environmental Impact Statement, Grant-Kohrs Ranch National Historic Site, MT

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of intent to prepare an environmental impact statement for the General Management Plan, Grant-Kohrs Ranch National Historic Site.

SUMMARY: Under the provisions of the National Environmental Policy Act, the National Park Service is preparing an environmental impact statement for the general management plan for Grant-Kohrs Ranch National Historic Site.

The effort will result in a comprehensive general management plan that encompasses preservation of cultural and natural resources, management of visitor use and interpretation, and rehabilitation or construction of facilities. In cooperation with the Montana State Historic Preservation Officer, attention will also be given to management of some 88 historic structures within the national historic site. Alternatives to be considered will include no-action, a proposed action, and other feasible options. Three additional efforts will accompany the general management plan. They are a development concept plan, resource management plan, and interpretive prospectus.

Major issues include the use, rehabilitation, maintenance, and management of historic structures, objects and scenes; the relationship of historic structures and objects to visitor use and interpretation; efficiency of park operations; overall management of natural resources; and the influences of activities on adjacent lands to park values, resources, and visitors. Scoping brochures can be obtained from the Superintendent, Grant-Kohrs Ranch National Historic Site, at the address below.

FOR FURTHER INFORMATION: Contact Superintendent, Grant-Kohrs Ranch National Historic Site, Deer Lodge, Montana 59722, (406) 846–2070.

Dated: April 11, 1991.

Richard A. Strait,

Acting Regional Director, Rocky Mountain Region.

[FR Doc. 91–10098 Filed 4–29–91; 8:45 am]

BILLING CODE 4310–70–M–M

General Management Plan, Environmental Impact Statement, Jewel Cave National Monument, SD

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of intent to prepare an environmental impact statement for the General Management Plan, Jewel Cave National Monument.

SUMMARY: Under the provisions of the National Environmental Policy Act, the National Park Service is preparing an environmental impact statement for the General Management Plan for Jewel Cave National Monument.

The effort will result in a comprehensive general management plan that encompasses preservation of natural and cultural resources, visitor use and interpretation, roads, and facilities. In cooperation with the Forest Service, Custer County, and the State of South Dakota, attention will also be given to resources outside the boundaries that affect the integrity of Wind Cave National Park and Jewel Cave National Monument. A full range of alternatives for resolving issues will be considered, including a no action alternative. A development concept plan will accompany the general management plan.

Major issues include the effect of surface facilities on the cave; protection of cave underlying land outside monument boundaries; cultural and resource management; visitor activities; visitor use facilities; and adequacy of administrative facilities.

A scoping brochure has been prepared that details the issues identified to date. Copies of that information can be obtained from: Jewel Cave Planning Team, Denver Service Center, National Park Service, P.O. Box 25287, Denver, Colorada, 80225.

FOR FURTHER INFORMATION: Contact Superintendent, Jewel Cave National Monument, (605) 673–2288.

Dated: April 18, 1991.

Lorraine Mintzmyer,

Regional Director, Rocky Mountain Region.

[FR Doc. 91–10099 Filed 4–29–91; 8:45 am]

BILLING CODE 4310–70–M–M

General Management Plan/ Environmental Impact Statement for Lake Chelan National Recreation Area, WA

AGENCY: National Park Service, Interior.

ACTION: Notice of Intent to prepare an Environmental Impact Statement for General Management Plan, Lake Chelan National Recreation Area, WA.

SUMMARY: In accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91–190, and with the Consent Decree pursuant to *North Cascades Conservation Council* v. *Lujan*, C–89–1342D (W.D. Wash.), the National Park Service is preparing an environmental impact statement to assess the impacts of alternative management concepts for Lake Chelan National Recreation Area and the Stehekin River watershed. A range of alternatives will be formulated in order to evlauate differing management approaches to resource protection, visitor use, access, operations, and land protection for the area. As a conceptual framework for formulating these alternatives, the Recreation Area's purposes, resources of significance, major visitor experiences, and the NPS's management objectives will first be identified.

Representatives of federal, state and local agencies, private organizations, and individuals from the general public who may be interested in or affected by the proposed plan/EIS are invited to provide initial scoping written comments on the plan and environmental impact statement. Also, it is anticipated that public scoping sessions will be held at a future date to be announced and an additional comment period will be opened at that time. The draft plan and environmental statement are expected to be completed and available for public review by the Spring of 1992. The final plan, environmental statement, and Record of Decision are expected to be completed approximately one year later.

The responsible official is Charles H. Odegaard, Regional Director, Pacific Northwest Region, National Park Service.

DATES: Written comments on the scope of the issues and alternatives to be analyzed in the plan/EIS should be received no later than July 1, 1991.

ADDRESSES: Written comments concerning the plan/EIS should be sent to the Superintendent, North Cascades National Park Service Complex, 2105 Highway 20, Sedro Woolley, WA 98284–1799.

FOR FURTHER INFORMATION CONTACT: Superintendent, North Cascades National Park Service Complex, at the above address or at telephone number (206) 856–5700.

Dated: April 15, 1991.

Charles H. Odegaard,

Regional Director, Pacific Northwest Region, National Park Service.

[FR Doc. 91–10100 Filed 4–29–91; 8:45 am]

BILLING CODE 4310–70–M–M

General Management Plan, Environmental Impact Statement, Wind Cave National Park, SD

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of intent to prepare an environmental impact statement for the General Management Plan, Wind Cave National Park.

SUMMARY: Under the provisions of the National Environmental Policy Act, the National Park service is preparing an environmental impact statement for the General Management Plan for Wind Cave National Park.

The effort will result in a comprehensive general management plan that encompasses preservation of natural and cultural resources, visitor use and interpretation, roads, and facilities. In cooperation with the Forest Service, Custer State Park, Custer County, and the State of South Dakota, attention will also be given to resources outside the boundaries that affect the integrity of Wind Cave National Park. A full range of alternatives for resolving issues will be considered, including a no action alternative. A development concept plan will accompany the general management plan.

Major issues include the effect of surface facilities on the cave; the adequacy of park administrative areas; management of natural and cultural resources; visitor use facilities; visitor activities; and the park road system.

A scoping brochure has been prepared that details the issues identified to date. Copies of that information can be obtained from: Wind Cave Planning Team, Denver Service Center, National Park Service, P.O. Box 25287, Denver, Colorado 80225.

FOR FURTHER INFORMATION: Contact Superintendent, Wind Cave National Park, (605) 745–4600.

Dated: April 18, 1991.

Lorraine Mintzmyer,

Regional Director, Rocky Mountain Region.

[FR Doc. 91–10102 Filed 4–29–91; 8:45 am]

BILLING CODE 4310–70–M–M

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 20, 1991. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by May 15, 1991.

Carol D. Shull,

Chief of Registration, National Register.

ALABAMA

Calhoun County

Anniston Electric and Gas Company Plant, Old, 2 W. Third St., Anniston, 91000611

COLORADO

Eagle County

Yarmony Archeological Site (Archaic Period Architectural Sites in Colorado MPS.) Address Restricted. Radium vicinity, 91000615

FLORIDA

Hillsborough County

Tampa Free Public Library, Old, 102 E. Seventh Ave., Tampa, 91000618

Palm Beach County

Old Palm Beach Junior College Building, 813 Gardenia Ave., West Palm Beach, 91000601

LOUISIANA

Caddo Parish

Central High School, 1627 Weinstock St., Shreveport, 91000606

MARYLAND

Charles County

Johnsontown, Fairgrounds Rd. E. of Penn Central RR tracks, La Plata vicinity, 91000610

St. Mary's Roman Catholic Church, Newport, St. Mary's Church Rd., Newport vicinity, 91000603

MASSACHUSETTS

Bristol County

Old Town Historic District, SE. of jct. of I–295 and Washington St., North Attleborough, 91000599

Franklin County

Alexander, Simeon, Jr. House, Millers Falls Rd. S. of Pine Meadow Rd., Northfield, 91000598

Worcester County

Elm Hill Farm Historic District, E. Main St. E. of jct. with Brookfield Rd., Brookfield, 91000600

MISSISSIPPI

Clay County

Brogan Mound and Village Site Discontiguous District, Address Restricted, West Point vicinity, 91000607

MISSOURI

Dent County

Lower Parker School (Missouri Ozarks Rural Schools MPS), E bank of Current R. at Parker Hollow, Ozark National Scenic Riverways, Salem vicinity, 91000604

Shannon County

Buttin Rock School (Missouri Ozarks Rural Schools MPS), E bank of Current R., S of Powder Mill Ferry, Ozark National Scenic Riverways, Eminence vicinity, 91000605

NEW JERSEY

Atlantic County

Risley, Jeremiah II or Edward, House, 8 Virginia Ave., Northfield, 91000609

NEW MEXICO

Mora County

Santa Clara Hotel, 111 Railroad Ave., Wagon Mound, 91000602

NEW YORK

Columbia County

Wild, Nathan, House, 3007 Main St., Valatie, 91000612

OKLAHOMA

Marshall County

Haley's Point Site, Address Restricted, Lebanon, 91000613

OREGON

Douglas County

China Ditch, Upper reaches of N. Myrtle Cr., Myrtle Creek vicinity, 91000616

Harney County

Riddle Ranch, Little Blitzen R., E of Donner and Blitzen R., Frenchglen vicinity, 91000614

UTAH

Grand County

Julien, Denis, Inscription, Mouth of Hell Roaring Canyon, Green River Canyon, Moab vicinity, 91000617

WYOMING

Sweetwater County

Reliance Tipple, E of US 187, Reliance, 91000619

[FR Doc. 91–10103 Filed 4–29–91; 8:45 am]

BILLING CODE 4310–70–M–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31866]

Illinois Central Railroad Company—Trackage Rights Exemption—Missouri Pacific Railroad Company

Missouri Pacific Railroad Company has agreed to grant overhead trackage rights to Illinois Central Railroad Company over a 5.99-mile line of railroad between mileposts 384.50 and 390.49, in Memphis, TN. The trackage rights were to become effective on or after April 24, 1991.

This notice is filed under 49 CFR 1180.2(d)(7). 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 stay the transaction. Pleadings must be filed with the Commission and served on: William C. Sippel, Oppenheimer Wolff & Donnelly, Two Illinois Center, 233 North Michigan Avenue, Chicago, IL 60601.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: April 24, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Kathleen M. King,

Acting Secretary.

[FR Doc. 91–10139 Filed 4–29–91; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Labor Research Advisory Council; Meetings and Agenda

The Spring meetings of committees of the Labor Research Advisory Council will be held on May 20, 21, 22, and 23.

The Labor Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of union research directors and staff members. The schedule and agenda of the meetings are as follows.

Monday, May 20, 1991

1:30 p.m.—Committee on Prices and Living Conditions room 2734—General Accounting Office Bldg., 441 G Street, NW., Washington, DC

1. Federal Economic Indicators Initiative.
   a. Producer Price Indexes,
   b. International Price Indexes,
   c. Consumer Price Indexes.
2. Status of Poverty Level Project.
3. Other business.

Tuesday, May 21, 1991

1:30 p.m.—Committee on Employment and Unemployment Statistics—Room N–3437 A & B Frances Perkins Building, 200 Constitution Avenue, NW., Washington, DC

1. Discussion: Boskin Initiatives—Plans for improvements in Federal economic indicators.
2. Project Status Reports
   a. Foreign direct investment project,
   b. Employee turnover and job openings pilot project,
   c. Mass layoff statistics,
   d. Monitoring the impact of Defense cutbacks,
   e. Survey of training in industry.

Wednesday, May 22, 1991

8:30 a.m.—Committee on Wages and Industrial Relations room N–3437 A & B, Frances Perkins Bldg. 200 Constitution Avenue, NW.

1. Review of current activities,
2. Substance abuse treatment and health care plans,
3. Implementing pay reform legislation,
4. Publication of seasonally adjusted employment cost index,
5. Other business.

1:30 p.m.—Committee on Productivity, Technology, and Growth—Room N–3437 A & B, Frances Perkins Bldg., 200 Constitution Avenue, NW.

1. Progress report on work of the Office of Employment Projections,
2. BLS productivity measurement methods for service industries,
3. Labor productivity and multifactor productivity: effects of revisions in underlying data and improvements in methodology.

3 p.m.—Committee on Foreign Labor and Trade—Room N–3437 A & B, Frances Perkins Bldg. 200 Constitution Avenue, NW.

1. Report on BLS Conference on Economic Statistics for Economies in Transition: Eastern Europe in the 1990's, held on February 14–16,
2. Progress report on BLS international comparisons work.

Thursday, May 23, 1991

10 a.m.—Committee on Occupational Safety and Health Statistics—Room 2437, General Accounting Office Bldg. 441 G Street, NW., Washington, DC

1. Status report on the Safety and Health Statistical Redesign.
   a. Pilot tests,
   b. Impact of changes to recordkeeping system on statistical system.
   c. Mine safety and health statistics.
2. Status report on census of fatal occupational injuries.
3. Other business.

The meetings are open to the public. Persons planning to attend these meetings as observers may want to contact Wilhelmina Abner on (Area Code 202) 523–1327.

Signed at Washington, DC this 24th day of April 1991.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 91–10159 Filed 4–29–91; 8:45 am]

BILLING CODE 4510–24–M

Employment and Training Administration

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of April 1991.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–25,439; Forest Grove Lumber, Forest Grove, OR

TA–W–25,278; United Technologies Automotive Group, Inc., North Manchester, IN

TA–W–25,279; VCS Puerto Rico Can Co., Mercedita, PR

TA–W–25,281; Walbro Corp., Caro, MI

TA–W–25,281A; Walbro Corp., Cass City, MI

TA–W–25,395; New Jersey Aluminum Co., New Brunswick, NJ

TA–W–25,402; The Permian Corp., Houston, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–25,403; The Permian Corp., Midland, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–25,404; The Permian Corp., Ranger, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–25,405; The Permian Corp., Tye, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

Affirmative Determinations

TA–W–25,431; Moench Tanning Co., Gowanda, NY

A certification was issued covering all workers separated on or after February 5, 1990.

TA–W–25,497; Geoffrey Beene, New York, NY

A certification was issued covering all workers separated on or after January 1, 1991.

TA–W–25,440; U.S. Shoe Corp., Falmouth, KY

A certification was issued covering all workers separated on or after January 29, 1990.

TA–W–25,441; U.S. Shoe Corp., Greenfield, OH

A certification was issued covering all workers separated on or after January 29, 1990.

TA–W–25,459; Ellen L., Inc., Elizabeth, NJ

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA–W–25,471; Network Product Div., NCR Corp., St. Paul, MN

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–25,418 & TA–W–25,419; Energetics Limited, Marion, MI and Mason, MI

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–25,443; United Rubber Corp., Linoleum & Plastic Workers of America, Secretarial Staff, Eau Clair, WI

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–25,406; United Technologies Corp., Carrier Corp., Syracuse, NY

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–25,492; Dotts Enterprises, Coal Sales, Coalport, PA

U.S. imports of coal were negligible in 1988, 1989 and in the Jan–Sept 1990 period under investigation.

TA–W–25,414; Cambria Mills Coal Co., Coalport, PA

U.S. imports of coal were negligible in 1988, 1989 and in the Jan–Sept 1990 period under investigation.

TA–W–25,442; U.S. Shoe Corp., Harrison, OH

A certification was issued covering all workers separated on or after January 29, 1990.

TA–W–25,394; N & S Fashions, Paterson, NJ

A certification was issued covering all workers separated on or after January 30, 1990.

TA–W–25,548; G.H. Bass & Co., Wilton, ME

A certification was issued covering all workers separated on or after March 4, 1990.

TA–W–25,341; ITT Swf Auto-Electric Cairo, GA

A certification was issued covering all workers separated on or after December 31, 1989.

TA–W–25,340; GE Aerospace, Aircraft Control System Dept, Binghamton, NY

A certification was issued covering all workers separated on or after December 13, 1989.

TA–W–25,423; Henschel Shoe Co, Div of Athlone Industries, Littleton, NH

A certification was issued covering all workers separated on or after February 5, 1990.

TA–W–25,318; Caraway Manufacturing Corp., Caraway, TX

A certification was issued covering all workers separated on or after January 25, 1990.

TA–W–25,318A; Steele Manufacturing Corp., Steele, MO

A certification was issued covering all workers separated on or after January 25, 1990.

I hereby certify that the aforementioned determinations were issued during the month of April, 1991. Copies of these determinations are available for inspection in room C–4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons to write to the above address.

Dated: April 22, 1991.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 91–10158 Filed 4–29–91; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

White House Conference Advisory Committee; Meeting

DATE AND TIME:

May 14, 1991, 9:30 a.m. to 7:30 p.m.
May 15, 1991, 9 a.m. to 4:15 p.m.
May 16 1991, 9:30 a.m. to 4 p.m.

PLACE: Radisson Plaza Hotel at Mark Center, 5000 Seminary Road, Alexandria, VA 22311, Phone (703) 845–1010

STATUS: All meetings are Open.

MATTERS TO BE DISCUSSED: Joint National Commission on Libraries and Information Science (NCLIS) and White House Conference on Library and Information Services Advisory Committee (WHCAC) Meeting:

May 14, 1991

—9:30–10 a.m.
—Opening and Introduction by NCLIS and WHCAC Chairmen; Showing of D.C. Convention Center Video
—10 a.m.–12:30 p.m.
—Field Tour of D.C. Convention Center by NCLIS and WHCAC Members
—12:30–1:30 p.m.
—(Working Lunch)
—1:30–3:30 p.m.
—Reports from NCLIS and WHCAC Chairmen and WHCLIS Executive Director
—3:30–4 p.m.
—(Break)
—4–5 p.m.
—Report from WHCLIS Executive Director
—5 p.m.
—(Break)
—5:30–7:30 p.m.
—(Working Dinner)

May 15, 1991

—9 a.m.–9:45 a.m.
—Joint NCLIS/WHCLIS Report on Interim Activities
—9:45 a.m.–12 Noon
—Presentation on WHCLIS Schedule and Process
—Noon–1 p.m.
—(Working Lunch)
—1–2:30 p.m.
—In Depth WCHLIS Report
—2:30–3 p.m.
—WHCLIS Assignments for NCLIS and WHCAC Members
—3:00–3:45 p.m.
—New Business
—3:45–4 p.m.
—Public Comment Time
—4–4:15 p.m.
—Closing Remarks by NCLIS and WHCAC Chairmen
—4:15 p.m.
—Adjourn

May 16, 1991

—9:30–9:45 a.m.
—Opening Remarks by NCLIS Chairman
—9:45–10:30 a.m.
—Executive Committee Report
—10:30–Noon
—NCLIS New Business
—Noon–1:00 p.m.
—(Working Lunch)
—1–4 p.m.
—NCLIS Old Business
—4 p.m.
—Adjourn

Persons appearing before, or submitting only written statements to the Advisory Committee, are asked to hand over to the Committee prior to presenting testimony, 80 copies of their prepared statement. This will ensure that ample copies are available for the members of the Advisory Committee, the attending press, and the observers.

To request further information or to make special arrangements for handicapped individuals, contact Christina Pappas (202) 254–5100, no later than one week in advance of the meeting.

Dated: April 24, 1991.

Mary Alice Hedge Reszetar,

Designated Federal Officer for WHCAC NCLIS.

[FR Doc. 91–10084 Filed 4–22–91; 8:45 am]

BILLING CODE 7527–01–M

POSTAL RATE COMMISSION

[Order No. 882; Docket No. A91–3]

Seneca, Michigan 49280 (Irene Raymond, Petitioner); Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued April 23, 1991.

In the matter of Before Commissioners: George W. Haley, Chairman; Henry R. Folsom, Vice-Chairman; John W. Crutcher; W.H. "Trey" LeBlanc III; Patti Birge Tyson.

Docket Number: A91–3.

Name of Affected Post Office: Seneca, Michigan 49280.

Name(s) of Petitioner(s): Irene Raymond.

Type of Determination: Closing.

Date of Filing of Appeal Papers: April 18, 1991.

Categories of Issues Apparently Raised:

1. Effect on the community [39 U.S.C. 404(b)(2)(A)].

2. Effect on postal services [39 U.S.C. 404(b)(2)(C)].

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition, in light of the 120-day decision schedule [39 U.S.C. 404(b)(5)], the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memoranda previously filed.

The Commission Orders:

(A) The record in this appeal shall be filed on or before May 3, 1991.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Charles L. Clapp,

Secretary.

April 18, 1991	Filing of petition.
April 23, 1991	Notice and order of filing of appeal.
May 13, 1991.....	Last day of filing of petitions to intervene [*see* 39 CFR 3001.111(b)].

May 23, 1991.....	Petitioners' Participant Statement or Initial Brief [*see* 39 CFR 3001.115(a) and (b)].
June 12, 1991.....	Postal Service Answering Brief [*see* 39 CFR 3001.115(c)].
June 27, 1991.....	Petitioners' Reply Brief should Petitioners choose to file one [*see* CFR 3001.115(d)].
July 5, 1991.....	Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [*see* 39 CFR 3001.116].
August 15, 1991.....	Expiration of 120-day decisional schedule [*see* 39 USC 404(b)(5)].

[FR Doc. 91-10113 Filed 4-29-91; 8:45 am]

BILLING CODE 7710-FW-M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Application for Unlisted Trading Privileges in Over-the-Counter Issues

April 24, 1991.

On March 8, 1991, the Midwest Stock Exchange, Inc. submitted an application for unlisted trading privileges ("UTP") pursuant to section 12(f)(1)(C) of the Securities Exchange Act of 1934 ("Act") in the following over-the-counter ("OTC") securities, *i.e.*, securities not registered under section 12(b) of the Act:

File No.	Symbol	Issuer
7-6677	ADBE	Adobe System, Inc., no par value
7-6678	AGREA	American Greeting Corp., $1.00 par value
7-6679	BGEN	Biogen, Inc., $.01 par value
7-6680	BMET	Biomet, Inc., no par value
7-6681	BRNO	Bruno's Inc., $.01 par value
7-6682	CHRS	Charming Shoppes, Inc., $.01 par value
7-6683	ACCOB	Adolph Coors Co., no par value
7-6684	DIGI	DSC Communication Corp., $.01 par value
7-6685	INGR	Intergraph Corp., $.10 par value
7-6686	MEDC	Medical Care International, Inc., $.01 par value
7-6687	MENT	Mentor Graphics Corp., no par value
7-6688	RYAN	Ryan's Family Steak Houses, Inc., $1.00 par value
7-6689	STPL	St. Paul Companies, Inc., $1.50 par value
7-6690	COMS	3COM Corp., no par value
7-6691	TYSNA	Tyson Foods, Inc., $.10 par value

The above-referenced issues are being applied for as an expansion of the exchange's pilot program in which OTC securities are being traded pursuant to a grant of UTP.

The MSE also applied to withdraw UTP from the pilot program pursuant to Section 12(f)(4) on the following issues:

In the case of Liz Claiborne Inc., withdrawal is requested due to its recent listing on the New York Stock Exchange. In the case of First Executive Corp. withdrawal is requested because of the company's deteriorating financial condition.

File No.	Symbol	Issuer
7-6692	LIZC	Liz Clairborne, Inc., $1.00 par value
7-6693	FEXC	First Executive Corp., $2.00 par value

Comments

Interested persons are invited to submit, on or before May 15, 1991, written comments, data, views and arguments concerning this application. Persons desiring to make written comments should file three copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Commentators are asked to address whether they believe the requested grants of UTP would be consistent with section 12(f)(2), which requires that, in considering an application for an extension of UTP in OTC securities, the Commission consider, among other matters, the public trading activity in such securities, the character of such trading, the impact of such an extension on the existing markets for such securities and the desirability of removing impediments to and the progress that has been made toward the development of a national market system.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-10091 Filed 4-29-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-29121; File No. SR-PHLX-91-04]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Series Opening Request Ticket Procedures

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 22, 1991, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PHLX, pursuant to Rule 19b-4, submits as a proposed rule change a proposal to amend PHLX Rules 1047 and 1047A relating to equity options and index options trading rotations, respectively, as well as the corresponding Options Floor Procedure Advice A-12. The proposed amendments provide for a Series Opening Request Ticket ("SORT") procedure as an alternative to the rotation procedures presently enumerated in Rule 1047.

In any options class exhibiting little investor interest, the SORT procedure would permit the specialist to open a class of options without rotating each series. Individual options series would go through a rotation only if the specialist received a SORT ticket for that particular series; receipt of a SORT ticket for one series would not require that all series within a particular options class go through a rotation, just that all those series for which a SORT was received must go through rotation before non-SORT series could commence free-trading. In order for this alternative procedure to be utlized, a SORT form must be submitted to the specialist at least five minutes prior to the opening of trading.[1]

The text of the proposed rule change is available at the Office of the Secretary, PHLX, and the Commission.

[1] A specialist receiving a SORT before the opening but not within the 5 minute cut-off period is required, however, to make reasonable efforts to apply a series opening to that series. *See* letter dated February 26, 1991, from Edith Helman, Law Clerk, PHLX, to Thomas Gira, Branch Chief, Options Regulation, Division of Market Regulation.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and statutory basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposal is to amend PHLX Rules 1047 and 1047A and add Options Floor Procedure Advice A–12 to provide a quicker method of opening options classes having little investor interest. The proposal is a more efficient manner of realizing "free trading" in options that are thinly traded, as opposed to the current rotation procedures embodied in the Exchange's rules.

Part (a) of Commentary .01 to Rule 1047 sets forth the procedures for an opening rotation. The specialist opens each class of options by series, beginning with the nearest expiring series, and either alternating put and call calsses by series or opening a whole class in rank order by series based on strike price and expiration month before proceedng to the next series. Most importantly, each series does not begin to freely trade until all other series have been rotated. A modified rotation, as provided in part (b) of Commentary .01 to PHLX Rule 1047, permits proceeding in the same manner as an opening rotation except that each series may freely trade once all options with the same expiration month have opened.

The PHLX proposes to add part (c) to Commentary .01 of PHLX Rule 1047 to allow for a new type of opening called SORT. The SORT procedure permits the specialist to open all series in a class simultaneously after each series for which a SORT was submitted has been rotated. The SORT is a form that signals to the specialist that there is interest in a particular series and prevents him from opening the class without rotating that series. In this regard, if any member holds an order he does not wish to book with the specialist but wishes to be executed on the opening, he must place a SORT request with the specialist at least 5 minutes prior to the opening of trading. A specialist receiving a SORT before the opening but not within the 5 minute cut-off period is required, however, to make reasonable efforts to apply a series opening to that series.[2]

In the event the specialist chooses to conduct a SORT opening, the submission of a SORT ensures that in the course of that SORT opening, the specialist rotates that particular series. Before the opening, the specialist must announce to the crowd whether a SORT procedure will be utilized, and in which series, if any, he has received a SORT. Thereafter, the specialist may either (1) begin with the series for which a SORT was submitted, post the market, and then simultaneously open the remaining series in the class, or (2) first update quotations on all the other series and then rotate the individual SORTs. Employing either approach, a quicker, more efficient opening results.

The PHLX proposes to offer the SORT procedure as an improved, efficient method of opening options classes which have little or no expressed investor interest. In the past, time delays in rotation created opportunities for market change to occur before the crowd could respond. As the time delay is eliminated, however, such opportunities should arise less frequently.

The SORT method presumes a quick, efficient opening is preferable, especially where there is little or no trading interest in a particular class. Accordingly, the existing opening procedures provided in part (a) of Commentary .01 to PHLX Rule 1047 is unnecessarily cumbersome for those classes exhibiting little order flow or interest. On the other-hand, the SORT procedure focuses market participant attention on those series where there is expressed interest and permits that interest to be exposed to normal auction rotation procedures without impeding the timely opening of all remaining series in thinly-traded options classes. Therefore, the PHLX expects the proposal to expedite the realization of free trading in options, resulting in a benefit to all investors.

The Exchange believes that the proposed rule change is consistent with section 6(b)(5) of the Act which provides, in part, that the rules of the Exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 21, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[2] *Id.*

Dated: April 19, 1991.
Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 91-10090 Filed 4-29-91; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. IC-18110; 812-7550]

The Flex-Funds, et al.; Application

April 23, 1991.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: The Flex-Funds (the "Trust") and R. Meeder & Associates, Inc. ("Meeder").

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) from sections 18(f), 18(g), and 18(i).

SUMMARY OF APPLICATION: Applicants seek an order to permit The Flex-Funds Money Market Fund (the "Fund"), one of the Trust's investment portfolios, to issue and sell an unlimited number of classes of securities that would be identical in all respects except for differences related to expenses incurred solely by a particular class of Fund shares, voting rights, and class designation.

FILING DATE: The original application was filed on July 2, 1990. Amended and restated applications were filed on October 5, 1990, December 14, 1990, March 26, 1991, and April 16, 1991.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 20, 1991, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, P.O. Box 7177, 6000 Memorial Drive, Dublin, Ohio 43017.

FOR FURTHER INFORMATION CONTACT: Barry A. Mendelson, Staff Attorney, at (202) 504-2284, or Jeremy N. Rubenstein, Branch Chief, at (202) 272-3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Trust is a Pennsylvania business trust registered under the Act as an open-end management investment company. The Trust presently consists of four separate investment portfolio (the "Portfolios") with different investment objectives and policies. The Fund is a money market Portfolios of the Trust. The application concerns the Fund only and does not relate to the other Portfolios of the Trust.

2. Meeder is the investment adviser and manager of the Fund. The Fund acts as its own distributor.

3. Shares of the Fund ("Shares") are sold and redeemed at a net asset value computed daily, without a sales or redemption charge. The Fund has adopted a plan pursuant to rule 12b-1 under the Act that permits it to use up to .20% of its net assets annually to pay for the distribution of Shares.

4. The Fund proposes to create an unlimited number of additional classes of Shares, which will be marketed principally to or through groups, organizations, or institutions ("Organizations") acting on behalf of clients, members, or customers. In addition to the Shares sold to Organizations and investors purchasing through Organizations ("New Shares"), the Fund will continue to market Shares through other sales channels.

5. New Shares will be issued in connection with either or both of two plans: a "Services Plan" adopted pursuant to rule 12b-1, and a non-12b-1 "Administrative Plan" (collectively, the "Plans"). Both plans are separate and distinct from the 12b-1 plan referred to above, which will continue to apply to all Shares. With respect to each class of New Shares, the Fund will enter into a Services Plan agreement and/or an Administrative Plan agreement (collectively, "Plan Agreements") with Organizations whereby such Organizations will provide certain services to their clients, members, or customers who beneficially own New Shares of a particular class ("Class Shareholders").

6. The services to be provided by Organizations to their Class Shareholders under the Services Plan could include any one or more of the following: providing facilities to answer questions from prospective investors about the Fund; receiving and answering correspondence, including requests for prospectuses and statements of additional information; preparing, printing and delivering prospectuses and shareholder reports to prospective Class Shareholders; complying with Federal and State securities laws pertaining to the sale of New Shares; and helping investors in New Shares to complete application forms and select dividend and other account options.

7. The services to be provided by Organizations to their Class Shareholders under the Administrative Plan could include any one or more of the following: Receiving, aggregating and processing Class Shareholder orders; shareholder sub-accounting; providing and maintaining elective Class Shareholder services such as check writing and wire transfer services; providing and maintaining pre-authorized investment plans; periodic communications with Class Shareholders; acting as the sole shareholder of record and nominee for Class Shareholders; maintaining account records for Class Shareholders answering questions and handling correspondence from Class Shareholders about their accounts; issuing confirmations for transactions by Class Shareholders; and similar account administrative services.

8. The precise services to be provided by a particular Organization to its Class Shareholders will be specified in the Plan Agreement(s). The services to be provided by Organizations will augment or replace, rather than duplicate, the services provided to the Fund by Meeder and its affiliates. To the extent there is duplication, Meeder and its affiliates will cease providing such services to the affected class of New Shares, and will not be paid therefor. Applicants' proposal, in effect, will "unbundle" the services presently provided to the Fund and permit Organizations to select those services they wish to provide to their Class Shareholders.

9. With respect to each class of New Shares, the Fund will pay an Organization for its services in accordance with the terms of the Plan(s) and the particular Plan Agreement(s), and the cost of such payments ("Plan Payments") will be borne entirely by the beneficial owners of the class of New Shares of the Fund to which each Plan Agreement relates. Plan Payments under either the Services Plan or the Administrative Plan will not exceed .50% per annum of the average daily net asset value of those New Shares beneficially owned by Class Shareholders of the Organization who are covered by such Plan. For any class of New Shares subject to both the

Services Plan and the Administrative Plan, Plan Payments will be subject to a cap limiting Plan Payments to a maximum of .75% per annum of the average daily net assets of such class.

10. In addition to the cost of Plan Payments, each class of New Shares will bear certain expenses, listed in condition 1 *infra*, attributable specifically to such class ("Class Expenses"). The determination of which Class Expenses will be allocated to a particular class and any subsequent changes thereto will be determined by the trustees of the Fund in the manner described in condition 3 *infra*.

11. If applicants proposal is implemented, each New Share and each other Share of the Fund, regardless of class, will represent an equal *pro rata* interest in the Fund and will have identical voting, dividend, liquidation and other rights, preferences, powers, restrictions, limitations, qualifications, designations, terms, and conditions, except as set forth in condition 1 *infra*.

12. The net asset value of all outstanding Shares of the Fund will be computed at the same times by adding the value of all portfolio securities and other assets belonging to the Fund, subtracting the liabilities charged to the Fund, and dividing the result by the number of such outstanding Shares. The gross income of the Funds will be allocated on a *pro rata* basis to each class based on the relative net assets of each class.

13. All expenses of the Trust that cannot be attributed directly to any one Portfolio ("Trust Expenses") will be allocated to each Portfolio based on the relative net assets of such Portfolio. Trust Expenses could include, for example, trustees' fees and expenses, audit and legal fees, insurance premiums, SEC and state blue sky registration fees, and dues paid to organizations such as the Investment Company Institute.

14. Certain expenses may be attributable to the Fund, but not to a particular class ("Fund Expenses"). All such Fund Expenses will be borne on a *pro rata* basis by the outstanding Shares of the Fund regardless of class. Fund Expenses could include, for example, advisory fees, accounting fees, Custodian fees, and fees related to preparation of separate documents of the Fund.

15. Plan Payments and Class Expenses will be borne *pro rata* by the shareholders of the applicable class. Because the Plan Payments and Class Expenses to be borne by different classes of Fund Shares may vary, the net income per share of the different classes also may vary.

16. To ensure that the net asset value per share of all Shares of the Fund remains the same regardless of variations in net income from day to day, no Class will bear any Plan Payment or Class Expense that would cause the accrued expense of such Class to exceed allocated gross income. See condition 17 *infra*.

Applicants' Legal Analysis

1. Applicants request an exemptive order pursuant to section 6(c) of the Act because the proposed issuance and sale of New Shares of the Fund might be deemed: (a) To result in a "senior security" within the meaning of section 18(g) of the Act and therefore to be prohibited by section 18 (f)(1) thereof; and (b) to violate the equal voting provisions of section 18(i) of the Act. The implementation of the applicants' proposal may result in one class of Shares having "priority" over another as to payment of dividends and also may result in the various classes of Shares having unequal voting rights, in contravention of the aforementioned provisions of the Act.

2. In support of the requested order, applicants assert that the proposed allocation of expenses and voting rights in the manner described is equitable and will not discriminate against any group of shareholders. Only those investors purchasing New Shares and receiving the services provided under a Plan will bear the costs associated with such services, and only they will enjoy shareholder voting rights with respect to matters affecting the Plan. Applicants also assert that all holders of Shares are expected to benefit from their proposal, since the Fund's fixed costs will be spread over a greater number of shareholders than if the Trust were to create and operate new Portfolios holding the same investment portfolio as the Fund. Finally, applicants assert that their proposal will not lead to any of the abuses that section 18 of the Act was designed to eliminate.

3. Applicants believe that by offering New Shares in connection with Plans as described above, and also by creating and offering Shares independently of Plans, the Fund may be able to achieve added flexibility in meeting the service and investment needs of shareholders and future investors. If New Shares are created and Plans adopted as described above, the Fund will be able to address more precisely the needs of particular investors and cause the associated expenses to be borne by such investors. Applicants acknowledge that this objective might be achieved by organizing a separate investment portfolio for each class of New Shares to be created, but believe that this alternative would be economically and operationally inefficient. Applicants assert that organizing and operating additional investment portfolios would cause the Fund to incur unnecessary accounting and bookkeeping costs and that unless the additional portfolios grew at a sufficient rate and to a sufficient size, they could face liquidity and diversification problems that would prevent them from producing a favorable return.

Applicants' Conditions

Applicants agree that the following conditions will be imposed in any order of the SEC granting the requested relief:

1. Each class of Shares of the Fund will represent interests in the same portfolio of investments, and be identical in all respects, except for differences related to:

(a) The method of financing certain Class Expenses, which are limited to (i) transfer agent fees identified by the transfer agent as being attributable to a specific class of Shares; (ii) printing and postage expenses related to preparing and distributing materials such as shareholder reports, prospectuses, and proxies to current shareholders of a specific class; (iii) blue sky registration fees incurred by a class of Shares; (iv) SEC registration fees incurred by a class of Shares; (v) the expense of administrative personnel and services as required to support the shareholders of a specific class; (vi) litigation or other legal expenses relating solely to one class of Shares; and (vii) trustees' fees incurred as a result of issues relating to one class of Shares;

(b) Expenses assessed to a class pursuant to a Services Plan or Administrative Plan;

(c) Voting rights as to matters exclusively affecting one class of Shares; and

(d) Class designation differences. Any additional incremental expenses not specifically identified above which are subsequently identified and determined to be properly allocable to one class of Shares shall not be so allocated until approved by the SEC pursuant to an amended order.

2. The trustees of the Trust, including a majority of the independent trustees, will approve the offering of different classes of New Shares (the "Multi-Class System"). The minutes of the meetings of the trustees regarding the deliberations of the trustees with respect to the approvals necessary to implement the Multi-Class System will reflect in detail the reasons for the trustees' determination that the

proposed Multi-Class System is in the best interests of the Trust, the Fund and Shareholders.

3. The initial determination of the Class Expenses that will allocated to a particular class and any subsequent changes thereto will be reviewed and approved by a vote of the board of trustees of the Fund including a majority of the trustees who are not interested persons of the Fund. Any person authorized to direct the allocation and disposition of monies paid or payable by the Fund to meet Class Expenses shall provide to the board of trustees, and the trustees shall review, at least quarterly, a written report of the amounts so expended and the purposes for which such expenditures were made.

4. On an ongoing basis, the trustees, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor the Fund for the existence of any material conflicts among the interests of the various classes of Shares. The trustees, including a majority of the independent trustees, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. Meeder will be responsible for reporting any potential or existing conflicts to the trustees. In addition, Meeder will take the actions necessary to ensure that the Organizations will report any potential or existing conflicts to the trustees. If a conflict arises, Meeder at its own cost will remedy such conflict up to and including establishing a new registered management investment company.

5. Any rule 12b–1 plan adopted or amended to permit the assessment of a rule 12b–1 fee on any class of shares which has not had its rule 12b–1 plan approved by the public shareholders of that class will be submitted to the public shareholders of such class for approval at the next meeting of shareholders after the initial issuance of the class of shares. Such meeting is to be held within 16 months of the date that the registration statement relating to such class first becomes effective or, if applicable, the date that the amendment to the registration statement necessary to offer such class first becomes effective.

6. The Fund, which acts as its own distributor, will adopt compliance standards as to when each class of Shares may be sold to particular investors. Applicants will require all persons selling Shares of the Fund to agree to conform to such standards.

7. The Administrative Plan will be adopted and operated in accordance with the procedures set forth in rule 12b–1 (b) through (f) as if the expenditures made thereunder were subject to rule 12b–1, except that shareholders need not enjoy the voting rights specified in rule 12b–1. The trustees will evaluate the Administrative Plan and the Services Plan based upon whether (a) such Plans are in the best interest of the applicable classes and their respective shareholders, (b) the services to be performed pursuant to the Plans are required for the operation of the applicable classes, (c) the Organizations can provide services at least equal, in nature and quality, to those provided by others, including the Fund, providing similar services, and (d) the fees for such services are fair and reasonable in the light of the usual and customary charges made by other entities, especially non-affiliated entities, for services of the same nature and quality.

8. Each Plan Agreement will contain a representation by the Organization involved that any compensation payable to the Organization in connection with the investment of its Class Shareholders' assets in the Fund (i) will be disclosed by it to its Class Shareholders, (ii) will be authorized by its Class Shareholders, and (iii) will not result in an excessive fee to the Organization.

9. Any Plan Agreement shall provide that in the event an issue pertaining to a Plan is submitted for shareholder approval, the Organization shall vote any Shares held for its own account in the same proportion as the vote of those Shares held for its Class Shareholders' benefit.

10. The trustees will receive quarterly and annual statements concerning the amounts expended under the Administrative Plan and Services Plan and the related Plan Agreements complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale or servicing of a particular class of Shares will be used to justify any distribution or servicing fee charged to that class. Expenditures not related to the sale or servicing of a particular class will not be presented to the trustees to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent trustees in the exercise of their fiduciary duties.

11. Dividends paid by the Fund with respect to a class of Shares will be calculated in the same manner, at the same time, on the same day, and will be in the same per share amount as dividends paid by the Fund with respect to each other class of Shares of the Fund, except that Plan Payments made by a class under its Plan and any Class Expenses will be borne exclusively by the affected class.

12. The methodology and procedures for calculating the net asset value and dividends/distributions of the various classes and the proper allocation of expenses among the classes has been reviewed by an expert (the "Expert") who has rendered a report to the applicants, which report has been provided to the staff of the SEC, that such methodology and procedures are adequate to ensure that such calculations and allocations would be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Trust that the calculations and allocations are being made properly. The reports of the Expert will be filed as part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the Act and the work papers of the Expert with respect to such reports, following request by the Trust (which the Trust agrees to provide), will be available for inspection by the SEC staff upon written request by a senior member of the Division of Investment Management or a regional office of the SEC. Authorized staff members would be limited to the director, an associate director, the chief financial analyst, an assistant director, and any regional administrators or associate and assistant administrators. The initial report of the Expert is a "Special Purpose" report on the "Design of a System" and ongoing reports will be "Special Purpose" reports on the "Design of a System and Certain Compliance Tests" as defined and described in Statement of Auditing Standards No. 44 of the American Institute of Certified Public Accountants ("AICPA"), as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

13. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends/distributions of the various classes of Shares and the proper allocation of expenses among the classes of Shares and this representation has been concurred with by the Expert in the initial report referred to in condition 12 above and will be concurred with by the Expert or an appropriate substitute Expert on an ongoing basis at least annually in the ongoing reports referred to in that

condition. Applicants will take immediate corrective action if the Expert, or appropriate substitute Expert, does not so concur in the ongoing reports.

14. The prospectuses of each class of the Fund will include a statement to the effect that any person entitled to receive any portion of a Plan Payment may receive different compensation with respect to one particular class of Shares over another in the Fund.

15. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the trustees with respect to the Multi-Class System will be set forth in guidelines to be furnished to the trustees.

16. The Fund will disclose the respective expenses, performance data, distribution arrangements, services, fees and exchange privileges (if any) applicable to each class of Shares in every prospectus, regardless of whether all classes of Shares are offered through each prospectus. The Fund will disclose the respective expenses and performance data applicable to all classes of Shares in every shareholder report. To the extent that any advertisement or sales literature describes the expenses or performance data applicable to any class of Shares, it will also disclose the respective expenses and/or performance data applicable to all classes of Shares. The information provided by applicants for publication in any newspaper or similar listing of the Fund's net asset value or public offering price will present each class of Shares separately.

17. To ensure that the net asset value per share of all Shares of the Fund remains the same regardless of variations in net income from day to day, no Class will bear any Plan Payment or Class Expense that would cause the accrued expenses of such Class to exceed allocated gross income. To accomplish this, the Fund will obtain undertakings from all Organizations and service providers stating that, if necessary to prevent the accrued expenses of any class from exceeding the allocated gross income of such class on any given day, they will waive some or all of the Plan Payments and Class Expenses to which they would otherwise have been entitled. If such waivers are not sufficient to prevent the class's expenses from exceeding its gross income on any given day, Meeder will reimburse the Fund for the excess within five business days. Fees and expenses waived by an Organization or service provider or reimbursed to the Fund by Meeder will not be carried forward or recouped at a future time.

18. Applicants acknowledge that the grant of the requested exemptive order does not imply SEC approval, authorization of or acquiescence in any particular level of payments that the Fund may make to Organizations pursuant to any Plan in reliance on the exemptive order.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-10089 Filed 4-29-91; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Economic Injury Disaster Loan Area No. 7297]

Oregon; Declaration of Disaster Loan Area

Tillamook County and the contiguous counties of Clatsop, Columbia, Lincoln, Polk, Washington, and Yamhill in the State of Oregon constitute an Economic Injury Disaster Loan Area due to a landslide on April 2, 1991 which resulted in the closure of Highway 6.

Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on January 21, 1992 at the address listed below: U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853-4795 or other locally announced locations. The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: April 19, 1991.

Patricia Saiki,

Administrator.

[FR Doc. 91-10160 Filed 4-29-91; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Middlesex County, MA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Marlborough (Middlesex County), Massachusetts.

FOR FURTHER INFORMATION CONTACT: Anthony J. Fusco, Division Administrator, Federal Highway Administration, Transportation Systems Center, 55 Broadway, 10th Floor, Cambridge, MA 02142. Telephone 617-494-2000.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Massachusetts Department of Public Works, will prepare an Environmental Impact Statement (EIS) on a proposal to construct a new interchange on Interstate Route 495 (I-495) in Marlborough, (Middlesex County) Massachusetts, between State Route 9 and U.S. Route 20.

I-495, when constructed during the 1960s through rural communities and less dense areas of Boston's suburban fringe, was intended to principally serve regional and interstate through travel. Interchange points were limited to major arterial such as state and federal numbered routes. However, to maintain the utility of I-495 and similar highway facilities in an increasingly suburbanized and urbanized environment, and to help reduce congestion on local stress, the need has evolved for a number of additional interchange points with the local roadway network. In June, 1989, the Federal Highway Administration approved the concept of a new break-in-access on I-495 between State Route 9 and Route 20 in Marlborough.

Alternatives to the proposed project under consideration include:

1. Taking no action 2. Trumpet—Type interchange with connecting road to Crane Meadow Road and Simarano Drive on the west side of I-495 3. Diamond-type interchange with a connecting road to Crane Meadow Road and Simarano Drive on the west and Williams Street on the east, and 4. A Cloverleaf-type interchange with a connecting road to Crane Meadow Road and Simarano Drive on the west and Williams Street/Jericho Hill Road on the east. Design variations in profile and alignment will be analyzed in the various alternatives.

A scoping meeting will be held at Memorial Hall Auditorium, in City Hall, Marlborough, Massachusetts on April 25, 1991 at 10 a.m. to receive comments on the range of potential environmental issues associated with the project. The scoping effort is intended to enable appropriate regulatory officials to agree on a scope of work for preparation of an EIS.

To ensure that the full range of issues related to this proposed action are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assitance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: April 22, 1991.

Anthony J. Fusco,

Division Administrator.

[FR Doc. 91-10131 Filed 4-29-91; 8:45 am]

BILLING CODE 4910-22-M

Research and Special Programs Administration; Office of Hazardous Materials Safety

Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions—correction.

In notice document 56-70 beginning on page 14726 in the **Federal Register** Thursday, April 11, 1991, make the following correction:

On page 14727 the Application No. 10572-N, DPC Industries, Inc., Houston, TX should read Application No. 10573-N, DPC Industries, Inc., Houston, TX.

Issued in Washington, DC on April 12, 1991.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 91-10132 Filed 4-29-91; 8:45 am]

BILLING CODE 4910-60-M

Sunshine Act Meetings

Federal Register
Vol. 56, No. 83
Tuesday, April 30, 1991

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).

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Wednesday, May 1, 1991 (See times below)

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS:

MATTERS TO BE CONSIDERED:

10:00 a.m.—Open to the Public
Public Hearing—FY 93 Priorities

The Commission will hold a public hearing on the FY 1992 agenda and the FY 1993 agenda and priorities.

2:00 p.m.—Open to the Public
FY 93 Priorities.

The staff will brief the Commission on recommendations for priorities for Fiscal Year 1993.

For a Recorded Message Containing the Latest Agenda Information, Call (301) 492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, MD 20207 (301) 492–6800.

Dated: April 24, 1991.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 91–10289 Filed 4–26–91; 1:57 pm]

BILLING CODE 6355–01–M

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Thursday, May 2, 1991 (see times below).

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: 10:00 a.m.—Open to the Public.

1. *Cigarette Lighter NPR*

The Commission will consider a notice of proposed rulemaking (NPR) for a mandatory consumer product safety standard to require disposable and novelty cigarette lighters to resist operation by children less than five years old.

2:00 p.m.—Closed to the Public

2. *Enforcement Matter OS# 4293*

The staff will brief the Commission on enforcement matter OS# 4293.

3. *Enforcement Matter OS# 3681*

The staff will brief the Commission on enforcement matter OS# 3681.

For a Recorded Message Containing the Latest Agenda Information, Call (301) 492–5709.

CONTACT PERSON FOR ADDITONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 (301) 492–6800.

Dated: April 25, 1991.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 91–10290 Filed 4–26–91; 1:57 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF ENERGY
FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: April 22, 1991, 56 FR 16355.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: April 24, 1991, 10:00 a.m.

CHANGE IN THE MEETING: The following Docket Numbers have been added to Items CAG–6 and CAG–13 and PC–3 on the Agenda scheduled for April 24, 1991:

Item No., Docket No., and Company

CAG–6—RP90–107–000 and RP90–108–000, Columbia Gas Transmission Corporation
CAG–13—RP88–000 and RP91–51–000, CNG Transmission Corporation
PC–3—CP88–332–010, El Paso Natural Gas Company

Lois D. Cashell,

Secretary.

[FR Doc. 91–10217 Filed 4–25–91; 5:13 pm]

BILLING CODE 6717–02–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, May 6, 1991.

PLACE: Mariner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposals regarding a Federal Reserve Bank's building requirements.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: April 26, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91–10304 Filed 4–26–91; 3:19 pm]

BILLING CODE 6210–01–M

INTERNATIONAL TRADE COMMISSION

[USITC SE–91–13]

TIME AND DATE: Wednesday, May 8, 1991 at 10:30 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints.
5. Inv. 731–TA–514 (Preliminary) (Shop Towels from Bangladesh)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 252–1000.

Dated: April 23, 1991.

Kenneth Mason,

Secretary.

[FR Doc. 91–10256 Filed 4–26–91; 11:25 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

Commission Conference

TIME AND DATE: 10:00 a.m., Tuesday, May 7, 1991.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, DC 20423.

STATUS: The Commission will meet to discuss among themselves the following agenda items. Although the conference is open for the public observation, no public participation is permitted.

MATTERS TO BE DISCUSSED:

Finance Docket No. 31827, *CSX Transportation, Inc.—Acquisition and Lease Exemption—The Pittsburgh and Lake Erie Railroad Company.*

Docket No. 40365, *National Starch and Chemical Corporation v. The Atchison,*

Topeka and Santa Fe Railway Company, et al.

I&S M-30419, *Consolidated Freightways Corporation—Negotiated Rates Provisions.*

CONTACT PERSON FOR MORE INFORMATION: A. Dennis Watson, Office of External Affairs, Telephone: (202) 275-7252, TDD: (202) 275-1721.

Kathleen M. King,

Acting Secretary.

[FR Doc. 91-10275 Filed 4-26-91; 12:49 pm]

BILLING CODE 7035-01-M

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Amendment to Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 56 FR 15959, April 18, 1991.

PREVIOUSLY ANNOUNCED DATES OF MEETING: April 29-30, 1991.

CHANGES: Delete the following from the closed meeting agenda:

2. Consideraton of the Postal Rate Commission's Opinion and Recommended Decision in Docket No. R90-1.

Add the following item to the open meeting agenda.

3. Personnel Matters. (Anthony M. Frank)

CONTACT PERSON FOR MORE INFORMATION: David F. Harris, (202) 268-4800.

David F. Harris,

Secretary.

[FR Doc. 91-10313 Filed 4-26-91; 3:43 pm]

BILLING CODE 7710-12-

federal register

Tuesday
April 30 1991

Part II

Department of Education

Training Personnel for the Education of Individuals With Disabilities; Proposed Priority for FY 1991; Notice

DEPARTMENT OF EDUCATION

Training Personnel for the Education of Individuals With Disabilities; Proposed Priority for FY 1991

AGENCY: Department of Education.

ACTION: Notice of proposed priority for fiscal year 1991.

SUMMARY: The Secretary proposes to establish an additional priority for fiscal year (FY) 1991 under the Training Personnel for the Education of Individuals with Disabilities program (84.029). This priority is in addition to those previously published on July 13, 1990 (55 FR 28874–5), and on February 6, 1991 (56 FR 4906–11). Under this priority the Secretary will support projects for the training of educational interpreters for students with hearing impairments including deafness.

DATES: Comments must be received on or before May 30, 1991.

ADDRESSES: All comments concerning this priority should be addressed to Max Mueller, Department of Education, 400 Maryland Avenue, SW., (Switzer Building, room 3512–M/S 2651), Washington, DC 20202–2651.

FOR FURTHER INFORMATION CONTACT: Max Mueller. Telephone: (202) 732–1554. (TDD (202) 732–1999).

SUPPLEMENTARY INFORMATION: The Secretary proposes to establish a FY 1991 priority for one discretionary grant program administered by the Office of Special Education Programs. This priority is being proposed to implement language in the Senate appropriations committee report for 1991 concerning additional projects for training interpreters under section 631(a) of part D of the Individuals With Disabilities Education Act (Personnel Preparation).

The publication of this proposed priority does not preclude the Secretary from publishing additional priorities, nor does it limit the Secretary to funding only this priority, subject to meeting applicable rulemaking requirements.

Priority

Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under this competition only applications that meet this absolute priority.

Training Interpreters

The Secretary proposes to award 12 to 15 grants to support the preservice training of educational interpreters for children with hearing impairment, including deafness. The Department and the Congress have recognized that one of the most severe problems faced by schools in providing services for these children is obtaining qualified personnel to interpret. The problem is at least two-fold: (1) The availability of interpreters in general is quite limited in relation to the needs of children with hearing impairments; and (2) Even those interpreters who are available are often untrained or inadequately trained to meet the specific demands of interpreting and working in an instructional setting. The problem is exacerbated by the increasing integration of children with hearing impairments into regular education settings. Integration requires more interpreters than the previous practice of placing children with hearing impairments into segregated classes or schools because of the increased interpreter to student ratio required.

In response to this need the Training Personnel for the Education of Individuals with Disabilities program will support projects to increase the supply of educational interpreters. Support will be limited to projects that demonstrate recruitment strategies, specifically adapted curricula, and incentives designed to increase the probability of program graduates' functioning productively as interpreters in instructional settings. These funds must be concentrated on student support, rather than on basic institutional support.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order this document is intended to provide early notification of the Department's specific plans and actions for these programs.

Invitation to Comment:

Interested persons are invited to submit comments and recommendations regarding this proposed priority.

All comments submitted in response to this proposed priority will be available for public inspection during and after the comment period, in room 3072, Switzer Building, 330 C Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Program Authority: 20 U.S.C. 1431.

(Catalog of Federal Domestic Assistance Number 84.029: Training Personnel for the Education of Individuals with Disabilities)

Dated: March 28, 1991.

Lamar Alexander,

Secretary of Education.

[FR Doc. 91–10076 Filed 4–29–91; 8:45 am]

BILLING CODE 4000–01–M

federal register

Tuesday
April 30, 1991

Part III

Department of Education

Pell Grant Program; Deadline Dates for Receipt of Applications and Other Documents for the 1990–91 Award Year; Notice

DEPARTMENT OF EDUCATION

Pell Grant Program; Deadline Dates for Receipt of Applications and Other Documents for the 1990–91 Award Year

AGENCY: Department of Education.

ACTION: Notice.

SUMMARY: The Secretary announces the deadline dates for the receipt of documents from persons applying for financial assistance under the Pell Grant Program during the 1990–91 award year.

SUPPLEMENTARY INFORMATION: The Pell Grant Program provides grants to students attending eligible institutions of higher education to help them pay for their educational costs. Authority for the Pell Grant Program is contained in sections 411 through 411F of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. 1070a through 1070a–6. The regulations for the Pell Grant Program are codified in 34 CFR part 690 and 34 CFR part 668. The Secretary will announce the deadline dates for the receipt of documents from institutions participating in the Pell Grant Program during the 1990–91 award year in a subsequent notice.

I. Applications for Determination of Expected Family Contribution—Table I

As a requirement for receiving a Pell Grant, each applicant is responsible for submitting to an institution of higher education, a valid Student Aid Report (SAR) that states the amount of the student's expected family contribution (referred to on the SAR as the "PGI" [Pell Grant Index]) and the information used in calculating that amount. Therefore, each applicant must first submit to an agency listed in table I of this notice or through the Department's Electronic Data Exchange Stage 0 (Zero), as discussed below, his or her application for determining the expected family contribution. That application—hereafter referred to in this notice as an original application—must be submitted on one of the forms shown in Table I or through Stage 0 and be received by the designated agency or facility at the agency's address shown in Table I no later than May 1, 1991.

Stage 0 allows institutions to enter (or have their students enter) Federal student financial aid application data by utilizing software provided by the Department of Education. Stage 0 applications must be received at the Department of Education's Central Processing System facility no later than May 1, 1991

Applications of Students Receiving a "Dependency Override"

If the financial aid administrator at the institution an applicant is attending determines that the applicant qualifies as an independent student under section 411F(12)(B)(vii) of the HEA or that he or she qualifies as a dependent student under section 411F(12)(C) of the HEA, the applicant must submit a correction application to one of the agencies listed in Table I. A Stage 0 applicant who qualifies for a dependency override must submit a correction application coded for the appropriate dependency override through the Stage 0 process. If the applicant has not submitted an original application, then the deadline date for submission of a correction application is May 1, 1991. If the applicant has submitted an original application, the deadline date for the submission of the correction application is July 31, 1991.

Applications of Students Meeting a "Special Condition"

If the applicant meets a special condition as provided in 34 CFR 690.31 and 690.32, the applicant may provide the needed information on a correction application. If the applicant has not submitted an original application, the deadline date for the submission of the correction application is May 1, 1991. If the applicant has submitted an original application, the deadline date for the submission of the correction application is July 31, 1991.

Application forms sent to the Federal Student Aid Programs must be received at the U.S. Postal facility indicated in the table. Individuals at the application processing centers are not authorized to personally accept hand delivered documents. Applications submitted electronically through the Stage 0 process must be received at the Department of Education's Central Processing System facility.

(Approved by the Office of Management and Budget under OMB Control Number Application: 1840–0110)

II. Other Documents—Table I

Once an applicant has filed his or her original application, additional information may be necessary. In some cases the agency receiving the original application may request the information. In other cases, the applicant is responsible for initiating a request that additional or alternative information be considered.

Table I of this notice lists the contact points for form requests and other information requests. Each category designates the addresses to which the specified information or request must be sent, and the deadline date by which that information or request must be received at those addresses. However, the applicant must submit to the Federal Student Aid Programs, any changes that he or she wants to be reflected on his or her SAR. The following explains each category:

Correction Application

In addition to being used when an applicant receives a dependency override or meets a special condition as provided in 34 CFR 690.31 and 690.32, the Secretary will provide a correction application to an applicant if the applicant's original application lacked sufficient information to be processed. The applicant must include on the correction application all the information necessary to process that application.

If an applicant has misreported his or her dependency status, or if that status has changed after the applicant submitted an original application for reasons other than a change in marital status, the applicant must submit a correction application with the correct dependency status.

A correction application may be obtained from a financial aid administrator, an Educational Opportunity Center counselor, or by writing to Federal Student Aid Information Center, P.O. Box 84, Washington, DC 20044 or by calling 1(800) 333–INFO before May 1, 1991 or 1(800) 4 FED AID on or after May 1, 1991. The correction application must be returned to the address listed in Table I and received at that address no later than July 31, 1991, unless the correction application is submitted as an original application, in which case the May 1, 1991 deadline applies. A correction application submitted electronically through the Stage 0 process must be received by the Central Processing System no later than July 31, 1991, unless the correction application is submitted as an original application, in which case the May 1, 1991 deadline applies.

Student Aid Report (SAR)

• *Correction/Verification of Information Requested by the Secretary*—If the Secretary returns an SAR to an applicant for correction or verification of information, the applicant must correct or verify the information and return the SAR to the appropriate address listed in Table I. The SAR must be received at that address no later than July 31, 1991. A student attending an institution participating in the Electronic

Data Exchange (EDE) must submit that SAR, with the information corrected or verified, to the institution by July 31, 1991.

• *Correction of Inaccurate Information*—If the SAR reflects information that was inaccurate when the application was signed, the applicant must correct that information on the SAR and send the SAR to the appropriate address listed in Table I. The SAR must be received no later than July 31, 1991. A student attending an institution participating in the EDE must submit that SAR, with the information corrected, to the institution by July 31, 1991.

• *Recomputation of Pell Grant Index*—An applicant may request on the SAR that the Secretary recompute his or her Pell Grant Index, if—(1) the student believes a clerical or arithmetic error has occurred or (2) the student meets a special condition as provided in 34 CFR 690.31 and 690.32. The applicant must send the SAR to the appropriate address listed in Table I. The SAR must be received no later than July 31, 1991. A student attending an institution participating in the EDE must submit a request for recomputation to the institution by July 31, 1991.

• *Request for Duplicate SAR*—If an applicant wishes to receive a duplicate SAR, the applicant may write to one of the addresses listed in Table I, or call one of the phone numbers listed in Table I.

A written request must be received no later than July 31, 1991. All telephone requests must also be made no later than July 31, 1991. It should be noted that a written request sent to the appropriate application processing center must be received at the U.S. Postal facility indicated in Table I. Individuals at the application processing centers are not authorized to personally accept hand delivered documents.

Note—Although the Department of Education's application processing centers will accept and process corrections through July 31, 1991, this does not extend the deadline by which the student must submit his or her SAR with an eligible PGI to the institution's financial aid office. If the student does not submit an SAR with an eligible PGI to the financial aid office, showing that he or she is eligible, by his or her last date of enrollment or June 30, 1991, whichever is earlier, he or she will not be eligible for a Pell Grant payment.

TABLE I

[Deadline Date for Receipt of Original Application Forms for Determining Expected Family Contribution: May 1, 1991. Deadline Date for Receipt of Correction Applications (other than originals) and Other Documents: July 31, 1991.]

Type of form	For information about	Contact federal student aid programs
Application for Federal Student Aid (AFSA)	• Application Request	c/o AFSA Processor: Box 6367, Princeton, New Jersey 08541 Before May 1, 1991: 1 (800) 333-INFO. On or After May 1, 1991: 1(800) 4 FED-AID.
	• Spanish Application Request	Box 6368.
	• Correction Application Request	Box 6869.
	• SAR Corrections	Box 6370.
	• Duplicate Requests/other correspondence	Box 6371.
Family Financial Statement (FFS)	• Application Request	c/o American College Testing Programs (ACT): Box 1000, Iowa City, Iowa 52243. (319) 333-1200.
	• Corrections/other correspondence	Box 4018.
	• Duplicate Request/Address Changes	Box 4017.
Financial Aid Form (FAF)	• Request for MDE Form	Box 1002.
	• Application Request	c/o College Scholarship Service: Box 6300 Princeton, New Jersey 08541, (215) 750-8400.
	• SAR Corrections	Box 6374.
	• Duplicate Requests/Address Changes	Box 6375.
	• Other correspondence	Box 6376.
Application for Federal and State Student Aid (AFSSA).	• Application Request	c/o CSX: Box 52745, Jacksonville, Florida 32201.
	• Other Correspondence	Box 53555.
Pennsylvania Higher Education Assistance Agency (PHEAA).	• Application Request	c/o Pennsylvania Higher Education Assistance Agency (PHEAA): Box 8136, Harrisburg, Pennsylvania 17105 1 (717) 257-2800.
	• Other Correspondence	Box 8135.
Singlefile Form	• Application Request	c/o United Student Aid Funds (USAF): Box 6180, Indianapolis MC7621, Indiana 46206-6180. 1 (800) 448-3530.
	• Duplicate Request	Box 6131.
Stage 0 (electronic)	• Application Request	Central Processing System: via General Electronic Support network.
	• Diskettes and Tape Requests	National Computer Systems Stage 0, Box 30, Iowa City, Iowa 52244.
	• Other Inquiries	National Computer Systems GES Customer Service (319) 339-6642.

III. Verification Procedures and Deadline Dates

The information provided on an application and included on an SAR may be subject to verification. In that case, in order to receive a Pell Grant award for the 1990-91 award year, the applicant—and his or her parents, if applicable—must submit the necessary verification documents in accordance with the following procedures. The documents must be received no later than the deadline dates specified below. These dates do not conflict with nor supersede the deadline dates specified in Table I of this notice.

Verification of Information on Application. If an applicant is selected to have the information on his or her application verified under the verification procedures set forth in Subpart E of the Student Assistance General Provisions, he or she must submit the requested documents as specified below in steps 1-4. The deadline date for the completion of these steps in the verification process is the earlier of: 60 days from the applicant's last date of enrollment in the case of an applicant who leaves school because of graduation, completion of an academic term, or withdrawal; or

September 3, 1991. (Documents that are hand-delivered must be received by the institution by C.O.B. September 3, 1991. Documents sent by mail must be postmarked or demonstrate other comparable proof of mailing by September 3, 1991.) A student who will still be enrolled in a course of study in the 1990–91 award year after September 3, 1991, must submit the requested documents by September 3, 1991.

This process is complete when the applicant has:

(1) Submitted all requested verification documents to his or her institution;

(2) Made all necessary corrections on Part 2 of the SAR or through the EDE;

(3) Signed and submitted the corrected Part 2 of the SAR to the appropriate address indicated on the back of Part 2 of the SAR—the same address as indicated in Table I, or to the institution for those participating in the EDE—by the deadline date listed in Table I; and

(4) Submitted to the institution the corrected/reprocessed SAR received from the Department of Education's processing center. (34 CFR 668.60)

Application Forms and Information

Student aid application forms, correction application forms, and information brochures may be obtained through college and university financial aid administrators, Educational Opportunity Center counselors, or by writing or calling: Federal Student Aid Programs, P.O. Box 84, Washington, DC 20044. Telephone 1 (800) 333–INFO before May 1, 1991 or 1 (800) 4 FED–AID on or after May 1, 1991.

Applicable Regulations

The regulations applicable to this program are the Pell Grant Program regulations in 34 CFR part 690 and the Student Assistance General Provisions regulations in 34 CFR part 668.

FOR FURTHER INFORMATION CONTACT: Jennifer Radden, Program Specialist, Policy Section, Pell Grant Branch, Division of Policy and Program Development, Office of Student Financial Assistance, Office of Postsecondary Education, 400 Maryland Avenue SW. (ROB–3, room 4318), Washington, DC 20202. Telephone (202) 708–7888. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1 (800) 877–8339 (in Washington, DC (202) 708–9300) between 8 a.m. and 7 p.m., Eastern time.

(20 U.S.C. 1070a)

(Catalog of Federal Domestic Assistance No. 84.063, Pell Grant Program)

Dated: April 23, 1991.

Michael J. Farrell,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 91–10074 Filed 4–29–91; 8:45 am]

BILLING CODE 4000–01–M

federal register

Tuesday
April 30, 1991

Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

Funding Availability; (NOFA) for FY 1991; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-91-3242; FR 2997-N-01]

Funding Availability; Housing Counseling

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of funding availability (NOFA) for FY 1991.

DATES: The application kit (Request for Grant Application—RFGA) will specify the application due date. The due date is not known at this time because HUD was still preparing the application kit as of the date of this NOFA. However, the due date for applications will be no earlier than 30 days from the date of publication of this NOFA.

SUMMARY: This Notice announces the availability of funding for Fiscal Year (FY) 1991 for HUD-approved housing counseling agencies to provide housing counseling to homebuyers, homeowners, and renters, as set forth in HUD Handbook No. 7610.1 REV-2, dated September 1990 (the Handbook). An applicant must, as of the date of the grant award, be a HUD-approved housing counseling agency, and must be able and willing to provide, at a minimum: (1) Delinquency and default counseling to renters and homeowners; and (2) related counseling under HUD's single family mortgage assignment program. Exceptions to these two requirements are applicants approved by HUD to provide ONLY tenant counseling or Home Equity Conversion Mortgage counseling, or both. An applicant agency may offer any other aspect(s) of counseling set forth in the Handbook, including Home Equity Conversion Mortgage counseling. Housing counseling services not covered by the Handbook do not qualify for eligibility for funding under this NOFA.

In the body of this document is information concerning: The purpose of this NOFA; eligibility for funding; available funding; selection criteria; and the application process, including how to apply for funding, and how selections will be made.

FOR FURTHER INFORMATION CONTACT: Thomas Miles, Acting Chief, Secretary-held and Counseling Services Branch, U.S. Department of Housing and Urban Development, room 9178, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708-1672, or (202) 708-4594 (TDD number). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this NOFA have been approved by the Office of Management and Budget (OMB) under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), and assigned OMB control number 2535-0084.

I. Purpose and Substantive Description

A. Authority and Background

1. *Authority:* Secs. 106(a)(1)iii, 106(a)(2) and 106(c) of the Housing and Urban Development of 1968, as amended by sec. 811 of the Housing and Community Development Act of 1974; sec. 169 of the Housing and Community Development Act of 1987; sec. 577 of the National Affordable Housing Act of 1990; secs. 235, 237, and 255 of the National Housing Act, as amended; and HUD Handbook 7610.1 REV-2, dated September 1990.

2. *Background.* In accordance with the above statutory provisions, HUD administers a housing counseling program for homeowners and renters. Under this program, HUD contracts with public or private organizations to provide a broad range of housing counseling services to homeowners and renters to assist them in improving their housing conditions, and in meeting the responsibilities of homeownership or tenancy. When the Congress makes funds available to assist HUD's housing counseling program, HUD announces the availability of such funds, and invites applications from eligible agencies, through a notice published in the Federal Register. An agency that is approved by HUD as a housing counseling agency does not automatically receive funding. The agency must apply for such funding under a Request for Grant Application (RFGA) issued by HUD through its Regional Offices. The purpose of the housing counseling program is to promote and protect the interests of HUD, HUD-approved and other mortgagees, and housing consumers participating in HUD approved and other housing programs.

B. Allocation Amounts

1. *Total Available Funding.* A total amount of $8,000,000 was appropriated for housing counseling by the HUD Appropriations Act of 1991. The National Affordable Housing Act of 1990 (the Act) authorizes up to $2,000,000 of the total appropriated amount to be used by the Department for the establishment of a toll-free telephone number through which interested parties may obtain lists of housing counseling agencies. Of the remaining $6,000,000 available for actual counseling activities, HUD will use $425,000 to help resolve a litigation matter that involves housing counseling. HUD will make the remaining $5,575,000 available for the counseling services specified in the Act. This amount will be allocated for counseling activities as follows:

Activities:	*Millions*
a. Housing counseling services under Section 106(a) of the Housing and Urban Development Act of 1968	*$3.175
b. Emergency Homeownership Counseling under Section 106(c) of the Housing and Urban Development Act of 1968	2.400
Total allocation	5.575

*This amount represents the $3.6 million authorized minus the $425,000 for counseling under the litigation matter.

2. *Allocation of Funds to Regional Offices.* HUD Headquarters will allocate the $5,575,000 available for housing counseling services to its ten Regional Offices. The basis for the allocation is the percentage of HUD-insured single family mortgage defaults within each Region, compared to the nationwide total. The amounts allocated to the Regions for Fiscal Year 1991 (based on the $5,575,000) are as follows:

Region	Defaults	Percentage	Allocation
I	1,248	0.007	$39,025
II	11,753	.063	351,225
III	16,814	.091	507,325
IV	47,292	.255	1,421,625
V	31,791	.171	953,325
VI	33,150	.178	992,350
VII	5,408	.029	161,675
VIII	10,330	.056	312,200
IX	23,994	.129	719,175
X	3,968	.021	117,075
Total	185,748	100	5,575,000

3. *Grant Awards by HUD Regional Offices.* Regional Offices will make an equitable awarding of allocated housing counseling funds to eligible HUD-approved housing counseling agencies based upon documented need in relation to:

a. The amount of funds available; and

b. The number of successful applicants. (A determination of a "successful" applicant is based on the applicant's ability to meet the selection criteria, as specified in Section I.D of this NOFA.)

4. *Announcement of Awards.* HUD will notify all successful applicants upon their selection. Unsuccessful applicants will be notified after the awards have been made. No information will be made available to applicants during the period of HUD review and evaluation, except for notification to those applicants that are declared ineligible or late. In accordance with Section 102(a)(4)(c) of the Department of Housing and Urban Development Reform Act of 1989, HUD will notify the public, by notice published in the Federal Register, of award decisions made by HUD under this funding.

5. *Grantee Reimbursement by HUD.* HUD will reimburse grantees on the basis of not more than $35.00 per "counseling unit" which is defined as a *documented* face-to-face, written, or telephonic contact between:

a. The grantee's housing counselor and a client; or

b. The grantee's housing counselor and a mortgagee, landlord, service agency, creditor, credit reporting agency, governmental agency, realtor or employer, acting on behalf of a client, which results in an action or decision that:

(1) Identifies, clarifies, or assists in meeting or meets the client's housing need; or

(2) Assists in resolving or resolves the client's housing problem.

(See HUD Handbook 7610.1 REV-2 dated September 1990, paragraph 1-7 on page 1-6 for a full definition of "client," "housing need," and "housing problem.")

C. Eligibility

Eligible applicants include public and private nonprofit entities with a current approval by HUD as housing counseling agencies, under the provisions of HUD Handbook No. 7610.1 REV-2, dated September 1990, or its earlier versions. Current approval includes agencies that are on record at the applicable HUD Field Office as having been approved as a HUD counseling agency as of the date of issuance of the RFGA based on this NOFA. Agencies for which HUD has withdrawn this approval or have indicated in writing their withdrawal from the counseling program are NOT eligible. Agencies with "conditional" re-approvals are NOT eligible unless they satisfy HUD's requirements for removal of the "conditional" approval by the due date of applications for funding under this notice.

D. Selection Criteria

1. *General Criteria.* HUD, through its Regional Contracting Officers, will award housing counseling grants in Fiscal Year 1991 to selected eligible agencies. Within each Region, an eligible agency is a HUD-approved housing counseling agency that is:

a. located within the Region's geographical jurisdiction; and

b. provides, or proposes to provide, housing counseling within that Region. (Application eligibility and grant authority do NOT cross regional boundaries.)

2. *Specific Criteria.* Applications for funding under this notice will be reviewed, and grants will be awarded on the basis of an evaluation of *all* of the following criteria:

a. Amount requested by the grantee;

b. If the applicant had a HUD housing counseling grant in 1987, 1988, 1989, or 1990, the applicant's use of those funds;

c. Applicant's documented client workload*

(*"Workload" refers to the number of clients, as defined in HUD Handbook No. 7610.1 REV-2, dated September 1990, reported by the applicant on Form HUD-9902, Housing Counseling Agency Activity Report, for 1990);

d. Client workload total for all applicants within a HUD Regional Office;

e. Amount of housing counseling funds allocated to the HUD Regional Office by Headquarters;

f. Reimbursement of grantees by HUD on the basis of $35.00 per housing counseling unit;

g. Regional Offices' documented need for housing counseling services within the areas served by the applicants;

h. HUD's assessment of the applicant's previous performance as a HUD-approved housing counseling agency, including the submission of the required reports.

i. In the case of previous grantees, the applicant's performance under such grants, including the submission of the required reports.

II. Application Process

A. Obtaining and Submitting Applications

Applicants for grants may obtain copies of the Request for Grant Application (RFGA) from the Regional Contracting Officer in the HUD Regional Office that serves the area in which the applicant agency is located. The RFGA contains the application submission address. A list of the Regional Offices and their addresses follows the text of this NOFA.

B. Application Deadline

The RFGA contains the Application Deadline Date and Time by which HUD must *receive* a grant application. Applicants will have at least 30 days to prepare and submit their applications. "Submit" means delivery to the HUD Regional Office specified in the RFGA and by the delivery date and time specified in the RFGA. A proper submission in response to the RFGA must conform to the specifications in the RFGA.

III. Checklist of Application Submission Requirements

An applicant must submit three different types of written submissions: forms, certifications, and assurances. An applicant must submit three sets of each written submission, as specified below, with supporting documentation ONLY as specified in the RFGA. Applicants must limit the submission of material to that required by the individual form, certification or assurance. HUD will not consider extraneous material and will discard it.

A. Forms

Each applicant will be required to submit the following completed and signed forms:

1. Standard Form 424, Application for Federal Assistance.

2. Standard Form 424B, Assurances—Non-construction Programs.

B. Certifications

Each applicant will be required to submit, at a minimum, the following certifications:

1. Certification of a Drug-Free Workplace, in accordance with the Drug-Free Workplace Act of 1988 and HUD's regulations at 24 CFR part 24, subpart F.

2. Anti-Lobbying certification in accordance with section 319 of Public Law 101-121. Section 319 prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government. A common rule governing the restrictions on lobbying was published as an interim rule on February 26, 1900 (55 FR 6736) (supplemented by a Notice published June 15, 1990 at 55 FR 24540). The rule requires applicants, recipients, and subrecipients of assistance exceeding

$100,000 to certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance. The rule also requires disclosures from applicants, recipients, and subrecipients if nonappropriated funds have been spent or committed for lobbying activities.

C. Assurances

Each applicant will be required to submit, at a minimum, assurances regarding the applicant's housing counseling program to the effect that:

1. The applicant agency received its approval by HUD prior to the date of the applicable RFGA, and currently has approval from HUD.

2. The applicant agency provided housing counseling to clients* during 1990 as indicated on the applicant's Form HUD–9902, Housing Counseling Agency Activity Report, for 1990. The applicant must submit with their response to the RFGA a copy of their 1990 Form HUD–9902. An applicant approved by HUD after December 30, 1990, must submit Form HUD–9902 for 1990 as part of its application. (* See HUD Handbook No. 7610.1 REV–2 (September 1990) for a definition of "client.")

3. HUD has or has not conducted a performance review of the applicant agency's housing counseling program; whether, as a result of the review, HUD re-approved the agency *unconditionally* or *conditionally;* whether, if HUD granted a *conditional* approval because of certain agency performance deficiencies, the applicant agency corrected the deficiencies to HUD's satisfaction.

4. If the applicant agency received a counseling grant from HUD during HUD's fiscal year 1987, 1988, 1989, or 1990, the agency complied with all grant requirements.

5. The applicant agency submitted all reports required during the most recent report year under the Handbook, and the grant document, if any.

6. The number of clients listed as the applicant's *documented* housing counseling client workload for 1990 is correct.

7. The agency can and will commence counseling services *immediately* upon receipt of the notice of the award of a counseling grant to the applicant agency.

8. The applicant will provide, at a minimum, the following types of counseling (Exceptions are agencies approved by HUD to perform *only* Home Equity Conversion Mortgage (HECM) counseling or tenant counseling):

a. Delinquency and default counseling to home buyers and homeowners, and delinquency counseling to renters; and

b. Mortgage assignment counseling to mortgagors with HUD-insured mortgages having potential for assignment to HUD under the assignment program.

9. The agency had an independent financial audit during the past eighteen (18) months.

10. The applicant administers its housing counseling program in accordance with title VI of the Civil Rights Act of 1964, the Fair Housing Act, Executive Order 11063, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.

11. The applicant provides its service without any conflict of interest on the part of the applicant, including its staff, that might compromise the agency's ability to represent fully the best interests of the client in accordance with HUD Handbook No. 7610.1 REV–2, dated September 1990.

12. The applicant's clients reside in the U.S. Postal Service ZIP Code areas listed by the applicant.

IV. Corrections to Deficient Applications

Immediately after the deadline for submission of applications, applications will be screened to determine whether all items were submitted. Applicants will be given an opportunity to cure nonsubstantive deficiencies in their applications. The applicant must submit corrections within 14 calendar days from the date of HUD's deficiency notification or the application will not be considered

A. Curable Deficiencies

The kinds of deficiencies which can be cured after the submission date for applications has passed are limited to the following:

1. Lack of required signature(s) on the following documents or certifications:

a. Standard Form 424B, Assurances—Non-Construction Programs.

b. Certification of Drug-free Workplace.

2. Failure to submit either or both of the above documents or certifications.

B. Noncurable Deficiencies

Failure to submit:

1. A completed and signed Standard Form 424, Application for Federal assistance.

2. A signed Housing Counseling Program assurance and all of its required documentation. Failure to submit these items will be considered a non-response to the RFGA.

Note: HUD Will *Not* Notify Applicants Who Fail to Submit Any of the Above Two Required Documents. *Failure to Submit the Documents Constitutes a Non-Response to the RFGA.*

V. Other Matters

A. *Lobbying Activities-Prohibition and Disclosure.* The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (Pub. L. 100–121) and the implementing regulations at 55 FR 6737 (February 26, 1990). These authorities generally prohibit recipients of Federal contracts, grants, or 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. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Additionally, a recipient must file a disclosure if it has made or agreed to make any payment with nonappropriated funds that would be prohibited if paid with appropriated funds.

B. *Environmental Impact.* A Finding of No Significant Impact with respect to the environment has been made in accordance with the Department's regulations at 24 CFR part 50 which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays at the Office of the Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

C. *Federalism, Executive Order.* The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies and procedures contained in this NOFA will not have substantial direct effects on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government. Specifically, the purpose of the funding under this notice is to provide grants to public and private agencies that assist and advise housing consumers about how to develop competence and responsibility in meeting their housing needs.

D. *Family, Executive Order.* The General Counsel, as the Designated under Executive Order 12606, *The*

Family, has determined that this document may have potential for significant beneficial impact on family formation, maintenance, and general well-being to the extent that the activities of grantees will provide families with the counseling and advice they need to avoid rent delinquencies or mortgage defaults, and to develop competence and responsibility in meeting their housing needs. Since the impact on the family is considered beneficial, no further review under the Order is necessary.

(The Catalog of Federal Domestic Assistance Program number is 14.169.)

Authority: Secs. 106(a)(1)iii, 106(a)(2) and 106(c) of the Housing and Urban Development of 1968, as amended by sec. 811 of the Housing and Community Development Act of 1974; sec. 169 of the Housing and Community Development Act of 1987; sec. 577 of the National Affordable Housing Act of 1990; secs. 235, 237, and 255 of the National Housing Act, as amended; and HUD Handbook 7610.1 REV–2, dated September 1990.

Dated: April 18, 1991.

Arthur J. Hill,

Assistant Secretary for Housing-Federal Housing Commissioner.

HUD Regional Offices

Address all inquiries to U.S. Department of Housing and Urban Development, Attention: Regional Contracting Officer, in the Regional Office that serves your State. Telephone numbers are NOT toll-free.

Region I—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont
Thomas P. O'Neill, Jr. Federal Building, 10 Causeway Street, Room 375, Boston, MA 02222–1092, (617) 835–5161

Region II—New Jersey, New York
26 Federal Plaza, New York, NY 10278–0068, (201) 349–1845

Region III—Delaware, Maryland, Pennsylvania, Virginia, Washington (D.C.), West Virginia
Liberty Square Building, 105 South 7th Street, Philadelphia, PA 19106–3392, (215) 597–8165

Region IV—Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee
Richard B. Russell Federal Building, 75 Spring Street S.W., Atlanta, GA 30303–3388, (404) 841–4064

Region V—Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin
626 West Jackson Boulevard, Chicago, IL 60606–5601, (312) 353–6093

Region VI—Arkansas, Louisiana, New Mexico, Oklahoma, Texas
1600 Throckmorton, Post Office Box 2905, Fort Worth, TX 76113–2905, (817) 728–5452

Region VII—Iowa, Kansas, Missouri, Nebraska
Professional Building, 400 State Avenue, Kansas City, KS 66101–2506, (913) 757–2102

Region VIII—Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming
Executive Tower Building, 1405 Curtis Street, Denver, CO 80202–2349, (303) 564–3363

Region IX—Arizona, California, Hawaii, Nevada
Phillip Burton Federal Building and U.S. Court House, 450 Golden Gate Avenue, Post Office Box 36003, San Francisco, CA 94102–3448, (415) 556–7913

Region X—Alaska, Idaho, Oregon, Washington
Arcade Plaza Building, 1321 Second Avenue, Seattle, WA 98101–2058, (206) 399–7662

[FR Doc. 91–10088 Filed 4–29–91; 8:45 am]
BILLING CODE 4210–27–M

federal register

Tuesday
April 30, 1991

Part V

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved amendment to Tribe-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish in the **Federal Register** notice of approved Tribal-State Compacts for the purposes of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority has approved Amendment I to Tribal State Compact between the Prairie Island Sioux Community Reservation and the State of Minnesota.

ADDRESSES: Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior, MS–4614, 1849 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION: Joyce Grisham, Bureau of Indian Affairs, Washington, DC, (202) 208–7445.

Dated: April 17, 1991.

William D. Bettenberg,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 91–10126 Filed 4–29–91; 8:45 am]

BILLING CODE 4310–02–M

federal register

Tuesday
April 30, 1991

Part VI

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Notice

DEPARTMENT OF THE INTERIOR

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved amendment to Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish in the Federal Register notice of approved Tribal-State Compacts for the purposes of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority has approved Amendment I to Tribal-State Compact between the Upper Sioux Community Tribe and the State of Minnesota.

ADDRESSES: Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior, MS–4614, 1849 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION: Joyce Grisham, Bureau of Indian Affairs, Washington, DC, (202) 208–7445.

Dated: April 12, 1991.

William D. Bettenberg,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 91–10127 Filed 4–29–91; 8:45 am]

BILLING CODE 4310-02-M

federal register

Tuesday
April 30, 1991

Part VII

Department of Health and Human Services

Office of Human Development Services

Grants to Indian Tribal Organizations for Supportive and Nutritional Services for Older Indians; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

[Program Announcement 13655.911]

Grants to Indian Tribal Organizations for Supportive and Nutritional Services for Older Indians

AGENCY: Administration on Aging (AoA), OHDS, HHS.

ACTION: Announcement of availability of funds and opportunity to apply under the Older Americans Act, title VI, Grants for Native Americans, Part A—Indian Program.

SUMMARY: The Administration on Aging will accept applications for funding in Fiscal Year 1991 under the Older Americans Act, title VI, Grants for Native Americans, Part A—Indian Program, from eligible federally recognized Indian Tribal Organizations that are not now participating in title VI, part A, either as a single entity or as part of a consortium.

DATES: July 1, 1991.

ADDRESSES: See appendix A.

FOR FURTHER INFORMATION CONTACT: Floyd Godfrey, Office for American Indian, Alaskan Native, and Native Hawaiian Programs, Administration on Aging, Department of Health and Human Services, Wilbur J. Cohen Federal Building, room 4752, 330 Independence Avenue, SW., Washington, DC 20201, telephone (202) 619–2957.

SUPPLEMENTARY INFORMATION:

1. Background and Program Purpose

The Administration on Aging (AoA) is responsible for administering title VI, part A of the Older Americans Act, which provides for grants to Indian tribal organizations representing federally recognized Tribes for the provision of nutritional and supportive services to Indian elders.

The 1978 Amendments to the Older Americans Act created a new title, title VI, Grants for Indian Tribal Organizations. The purpose of this title was to promote the delivery of supportive and nutritional services for Indian elders that are comparable to services provided under title III of the Older Americans Act. (Title III of the Older Americans Act, entitled "Grants for State and Community Programs on Aging," is the nationwide program of supportive and nutritional services which serves persons over age 60 of all ethnic groups.)

In the Older Americans Act Amendments of 1978, the name of title VI was changed to Grants for Native Americans, and part B—Native Hawaiian Programs was added.

Nutritional services include congregate meals and home-delivered meals. Supportive services include information and referral, transportation, chore services, and other supportive services which contribute to the welfare of older Native Americans. Nutritional services and information and referral services are required by the Act.

2. Eligibility of an Indian Tribal Organization or Indian Tribe to Receive a Grant

To be eligible to receive a grant, a tribal organization or Indian tribe must meet the application requirements contained in sections 612(a) and 612(b) of the Act, which are: "(1) The tribal organization represents at least 50 individuals who are 60 years of age or older; and (2) the tribal organization demonstrates the ability to deliver supportive services, including nutritional services." For purposes of title VI, part A, the terms "Indian tribe" and "tribal organization" have the same meaning as in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

This announcement concerns only those federally recognized Indian Tribal Organizations not now participating in title VI, part A, either as grantees themselves or as members of a consortium where one tribal organization represents one or more eligible Tribes.

3. Available Funds

Funds have been appropriated for Fiscal Year 1991. Funds will be awarded to tribal organizations applying under this announcement based on a formula which considers the number of eligible applicant tribal organizations, and the number of elders over age 60 in each tribal organization's proposed title VI service area.

Information on grant levels in Fiscal Year 1990 is given below as a guide to possible funding levels for Tribes representing the following documented numbers of Indian elders over age 60:

Population range (number of older Indians age 60 years and over, represented by the tribal organization)	Amounts of awards in FY 1990
50 to 100	$43,069
101 to 200	51,080
201 to 300	59,502
301 to 400	67,924
401 to 500	76,346
501 +	84,768

4. Application Process

Applicants should submit applications, describing their proposed plans for nutritional and supportive services for older Indians for Fiscal Years 1991 and 1992, as described in section 5 below, "Content of the Application." One signed original and one copy of the application including all attachments, must be submitted to the Regional Program Director, Regional Office of the Department of Health and Human Services. (See appendix)

5. Content of the Application

The application must meet the criteria in sections 614 (a) and (b) of the Act, and title 45 of the Code of Federal Regulations, § 1326.19. The application may be presented in any format selected by the tribal organization. No standard Federal forms are required. The application must include the following information:

A. Objectives and Need for Assistance

This section must include objectives, expressed in measurable terms, which are related to the needs of the service population.

B. Results or Benefits Expected

The application should describe the results or benefits expected from each service proposed.

C. Approach

(1) Description and Method of Delivery of Each Service

(a) *Nutrition.* Nutrition services are required. There should be a description of the methods, facilities, and staff to be used in preparing, serving, and delivering meals, and the approximate number of persons to be served. Nutrition services must be substantially in compliance with the provisions of part C of title III. If no title VI, part A funds are to be used for nutrition services, the application must state how such services are provided in other ways, and how they are financed.

(b) *Information and Referral.* Information and referral services are required. They must be available for older Indians living in the title VI, part A service area and there should be a description of how they will be provided. The approximate number of individuals to be served should be stated. If no title VI, part A funds are to be used for information and referral services, the application must state how such services are provided in other ways, and how they are financed.

(c) *Other Supportive Services.* The application must describe any other

supportive services to be provided wholly or partly by title VI, part A funds. The approximate number of persons to be served by each service should be stated.

Legal assistance and ombudsman services may be provided, but are not required. However, if provided, they should be reported as "Supportive Services."

If a tribal organization elects to provide legal services, it must substantially comply with the requirements in title 45 of the Code of Federal Regulations § 1321.71, and all legal assistance providers must comply fully with the requirements in § 1321.71(d) through § 1321.71(k).

Transportation of persons to nutrition sites or other places is a part of "Supportive Services."

(2) Evaluation Criteria

The application must discuss the criteria to be used to evaluate the results and successes of the program, and explain the methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified in Item B above are being achieved.

D. Geographic Location

The application must include a narrative description of the title VI, part A service area, and a map. The area to be served by title VI, part A must have clear geographic boundaries. There is no prohibition, however, on its overlapping with areas served by title III.

E. Additional Information

(1) Older Indians in the title VI, Part A Service Area

The law requires that, to be eligible for title VI funding, a tribal organization must represent at least 50 persons aged 60 years or over. Therefore, the number of persons aged 60 or over living in the proposed title VI service area must be stated in the application. The amount of the grant is based on this number of persons aged 60 years or over. As a separate matter, the regulations allow a Tribe to define, based on its own criteria, who the Tribe will consider to be an "older Indian" for purposes of eligibility to receive title VI services. If a Tribe selects a different definition of "older Indian" for service delivery, the application must state the age selected, and the number of Indians under age 60 eligible to be served. If more than one Tribe is included in the application, this information must be stated separately for each Tribe. All Tribes in a consortium must use the same age for "older Indian."

(2) Resolution

The tribal organization representing a federally recognized Tribe must submit a copy of the tribal council resolution authorizing participation in title VI, part A. If the tribal organization represents a consortium of more than one Tribe, a resolution is needed from each participating Tribe, specifically authorizing representation for the purpose of title VI, part A of the Older Americans Act.

(3) Program Assurances

Title VI part A Program Assurances must be included in the application. The title VI part A Program Assurances are those provisions identified in section 614(a) of the Older Americans Act, and in title 45 of the Code of Federal Regulations 1326.19(d), issued August 31, 1988 (see Appendix B). The tribal organization must state that it agrees to abide by all the provisions for the entire period being applied for (Fiscal Year 1991).

Copies of the title III and title VI current law and regulations, and of part 92, may be obtained from the Regional Program Director for the Administration on Aging. See addresses and telephone numbers in section 4 above, "Application Process."

(4) Certification Forms

Certifications are required of the applicant regarding (a) lobbying: (b) debarment, suspension, and other responsibility matters; and (c) drug-free workplace requirements. Please note that a duly authorized representative of the applicant organization must attest to the applicant's compliance with these certifications.

(5) Identifying Information

Applicants must include a list which provides the following information separately, for both the principal official of the tribal organization, and the proposed title VI program director; Name, Title, Address including Zip Code, Telephone number, and, if available, the FAX Number. The tribal organization's EIN (Employer Identification Number) must also be included.

If the applicant tribal organization is a consortium, the application must list the federally recognized Tribes which are included. A copy of each tribal resolution must be enclosed.

(6) Closing Date for Application

To be eligible for consideration, applications must be received or postmarked on or before July 13, 1991. (Applicants are cautioned to request a legible dated U.S. Postal Service postmark, or to obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailing.)

(7) Action on Applications

Awards will be made by the Commissioner on Aging. Funding decisions will be announced as soon as possible.

(Catalog of Federal Domestic Assistance Program #93.655 Grants to Indian Tribes and Native Hawaiians. This Program Announcement is not subject to E.O. 12372)

Dated: April 24, 1991.

Joyce T. Berry,

U.S. Commissioner on Aging.

Appendix A

Regional Offices

Region I (CT, MA, ME, NH, RI, VT), Frank P. Ollivierre, RPD, John F. Kennedy Building, room 501, Boston, Massachusetts 02203, (617) 565–1158, FAX (617) 565–1111.

Region II (NY, NJ, PR, VI), Judith Rackmill, RPD, 26 Federal Plaza, room 4149, Broadway and Worth Streets, New York, New York 10278, (212) 264–2976, FAX (212) 264–4826.

Region III (DC, MD, VA, DE, PA, WV), Paul E. Ertel, Jr., RPD, 3535 Market Street, P.O. Box 13716, Philadelphia, Pennsylvania 19101, (215) 596–6891, FAX (215) 596–5028.

Region IV (AL, FL, MS, SC, TN, NC, KY, GA), Frank Nicholson, RPD, 101 Marietta Tower, suite 903, Atlanta, Georgia 30323, (404) 331–5900, FAX (404) 841–1740.

Region V (IL, IN, MI, MN, OH, WI), Eli Lipschultz, RPD, 105 West Adams Street, 21st Floor, Chicago, Illinois 60603, (312) 353–3141, FAX (312) 353–2629.

Region VI (AR, LA, OK, NM, TX), John Diaz, RPD, 1200 Main Tower Building, room 1000, Dallas, Texas 75202, (214) 767–2971, FAX (214) 767–2038.

Region VII (IA, KS, MO, NE), William Weisent, Acting RPD, 601 East 12th Street, room 384, Kansas City, Missouri 64106, (816) 426–2955, FAX (816) 426–2888.

Region VIII (CO, MT, UT, WY, ND, SD), John Diaz, Acting RPD, 1961 Stout Street, room 1185, Federal Office Building, Denver, Colorado 80294, (303) 844–2951, FAX (303) 844–3642.

Region IX (CA, NV, AZ, HI, GU, TTPI, CNMI, AS), Jack F. McCarthy, RPD, 50 United Nations Plaza, room 480, San Francisco, California 94102, (415) 556–6003, FAX (415) 556–30446.

Region X (AK, ID, OR, WA), Chisato Kawabori, RPD, Blanchard Plaza, RX–33; room 600, 2201 Sixth Avenue, Seattle, Washington 98121, (206) 553–5341, FAX (206) 553–6790.

Appendix B

Older Americans Act—Section 614(a)—No grant may be made under this part unless the eligible tribal organization submits an application to the Commissioner which meets such criteria as the Commissioner may by regulation prescribe. Each such application shall—

(1) Provide that the eligible tribal organization will evaluate the need for supportive and nutrition services among older Indians to be represented by the tribal organizations;

(2) Provide for the use of such methods of administration as are necessary for the proper and efficient administration of the program to be assisted;

(3) Provide that the tribal organization will make such reports in such form and containing such information, as the Commissioner may reasonably require, and comply with such requirements as the Commissioner may impose to assure the correctness of such reports;

(4) Provide for periodic evaluation of activities and projects carried out under the application;

(5) Establish objectives consistent with the purposes of this part toward which activities under the application will be directed, identify obstacles to the attainment of such objectives, and indicate the manner in which the tribal organization proposes to overcome such obstacles;

(6) Provide for establishing and maintaining information and referral services to assure that older Indians to be served by the assistance made available under this part will have reasonably convenient access to such services;

(7) Provide a preference for Indians aged 60 and older for full or part-time staff positions whenever feasible;

(8) Provide assistance that either directly or by way of grant or contract with appropriate entities nutrition services will be delivered to older Indians represented by the tribal organization substantially in compliance with the provisions of part C of title III, except that in any case in which the need for nutritional services for older Indians represented by the tribal organization may use the funds otherwise required to be expended under this clause for supportive services;

(9) Contain assurance that the provisions of sections 307(a)(14)(A) (i) and (iii), 307(a)(14)(B), and 307(a)(14)(C) will be complied with whenever the application contains provisions for the acquisition, alteration, or renovation of facilities to serve as multipurpose senior centers;

(10) Provide that any legal or ombudsman services made available to older Indians represented by the tribal organization will be substantially in compliance with the provisions of title III relating to the furnishing of similar services; and

(11) Provide satisfactory assurance that fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part to the tribal organization, including any funds paid by the tribal organization to a recipient of a grant or contract.

45 CFR 1326.19(d) Assurances as prescribed by the Commissioner that:

(1) A tribal organization represents at least 50 individuals who have attained 60 years of age or older;

(2) A tribal organization shall comply with all applicable State and local license and safety requirements for the provision of those services;

(3) If a substantial number of the older Indians residing in the service area are of limited English-speaking ability, the tribal organization shall utilize the services of workers who are fluent in the language spoken by a predominant number of older Indians;

(4) Procedures to ensure that all services under this part are provided without use of any means tests;

(5) A tribal organization shall comply with all requirements set forth in §§ 1326.7 through 1326.17; and

(6) The services provided under this part will be coordinated, where applicable, with services provided under title III of the Act.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR part 76, certifies to the best of its knowledge and believe that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transaction." provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR part 76, certifies that the best of its knowledge and belief that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(b) Where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions," without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

U.S. Department of Health and Human Services Certification Regarding Drug-Free Workplace Requirements Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR part 76, Subpart F. The regulations, published in the May 25, 1990 **Federal Register**, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may taken action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical

descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge " employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code)

Check ____ if there are workplaces on file that are not identified here.

Sections 76.630 (c) and (d)(2) and 76.635 (a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, room 517–D, 200 Independence Avenue, SW., Washington, DC 20201.

Signature _____

Date _____

Title _____

Organization _____

DGMO Form #2 Revised May 1990

BILLING CODE 4130-01-M

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____

Organization

_____

Authorized Signature Title Date

NOTE: If Disclosure Forms are required, please contact: Mr. William Sexton, Deputy Director, Grants and Contracts Management Division, Room 341F, HHH Building, 200 Independence Avenue, SW, Washington, D.C. 20201-0001

[FR Doc. 91-10124 Filed 4-29-91; 8:45 am]
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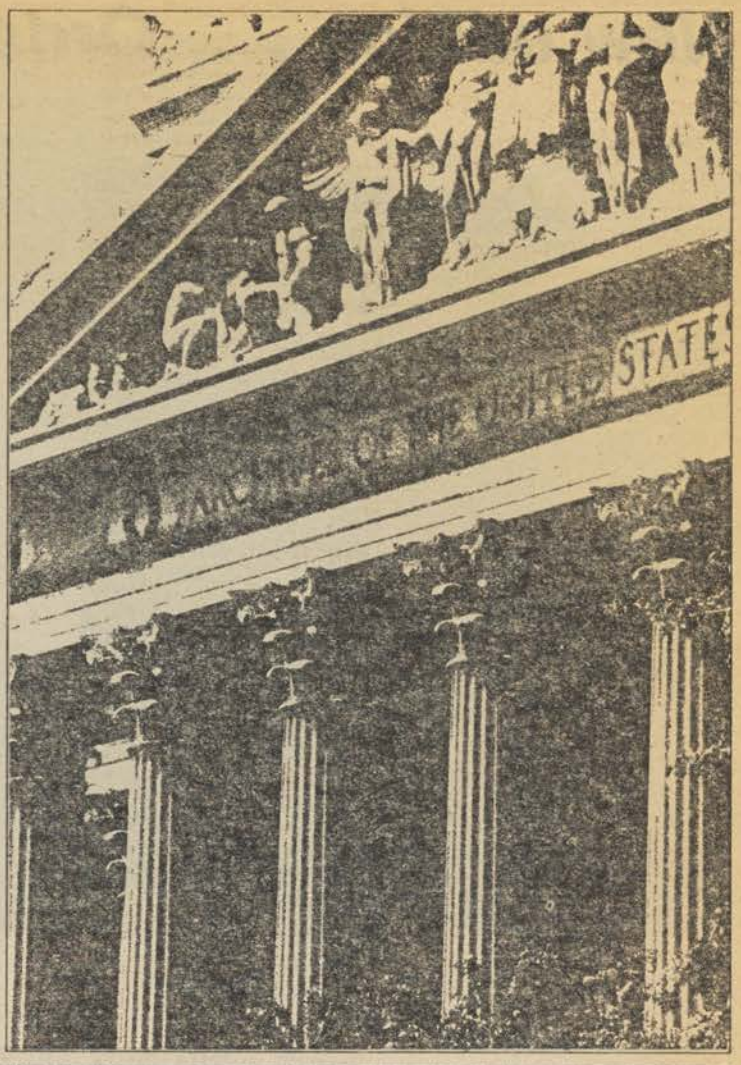

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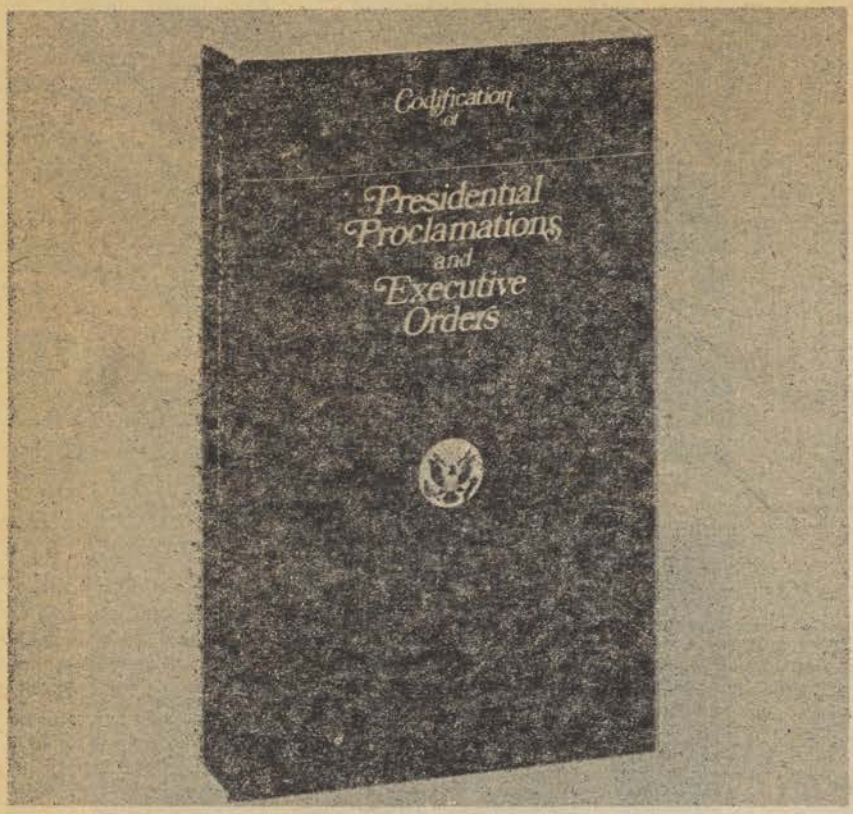

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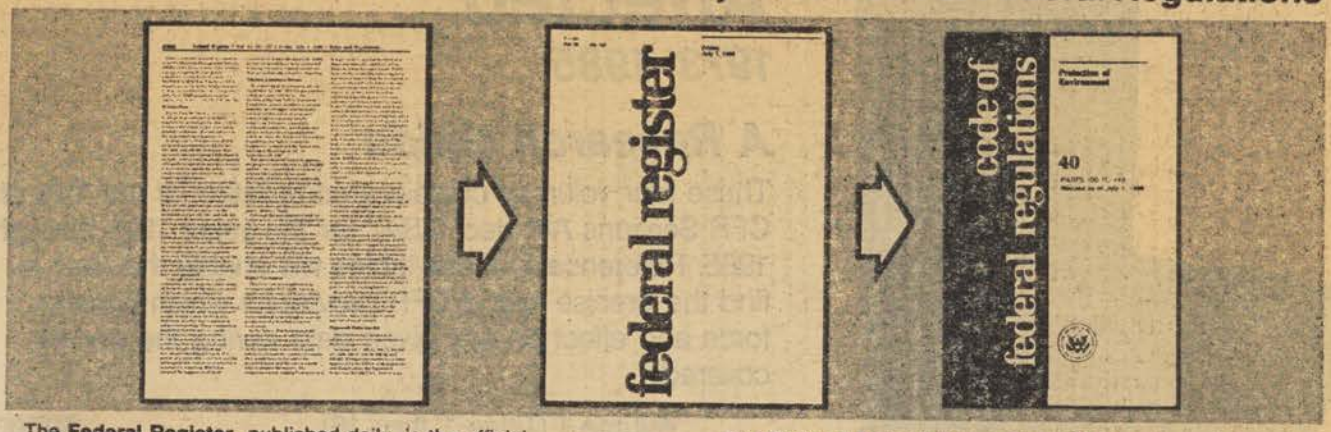

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