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Tuesday
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Briefings on How To Use the Federal Register
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WHAT IT IS AND HOW TO USE IT

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.

DENVER, CO

WHEN: September 26, at 9:00 am
WHERE: Denver Federal Center, Building 20
(E8 entrance on 2nd Street)
Conference Room B1409, Denver, CO
RESERVATIONS: Federal Information Center
1–800–359–3997

WASHINGTON, DC

WHEN: September 30, at 9:00 am
WHERE: Office of the Federal Register
First Floor Conference Room
1100 L Street, NW, Washington, DC
RESERVATIONS: 202–523–5240

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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.

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Presidential Documents

Title 3—

The President

Presidential Determination No. 91–49 of August 24, 1991

Eligibility of Congo To Be Furnished Defense Articles and Services Under the Foreign Assistance Act and the Arms Export Control Act

Memorandum for the Secretary of State

Pursuant to the authority vested in me by Section 503 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2311), and Section 3(a)(1) of the Arms Export Control Act, as amended (22 U.S.C. 2753(a)(1)), I hereby find that the furnishing, sale, and/or lease of defense articles and services to the Government of Congo will strengthen the security of the United States and promote world peace.

You are hereby authorized and directed to transmit this determination to the Congress and to publish it in the **Federal Register**.

George Bush

THE WHITE HOUSE,
Washington, August 24, 1991.

[FR Doc. 91–22457
Filed 9–13–91; 12:15 pm]
Billing code 3195–01–M

Presidential Documents

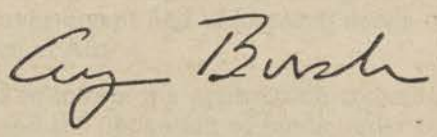
Presidential Determination No. 91–50 of August 24, 1991

Eligibility of Burundi To Be Furnished Defense Articles and Services Under the Foreign Assistance Act and the Arms Export Control Act

Memorandum for the Secretary of State

Pursuant to the authority vested in me by Section 503 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2311), and Section 3(a)(1) of the Arms Export Control Act, as amended (22 U.S.C. 2753(a)(1)), I hereby find that the furnishing, sale, and/or lease of defense articles and services to the Government of Burundi will strengthen the security of the United States and promote world peace.

You are hereby authorized and directed to transmit this determination to the Congress and to publish it in the **Federal Register**.



THE WHITE HOUSE,
Washington, August 24, 1991.

[FR Doc. 91–22458
Filed 9–13–91; 12:16 pm]
Billing code 3195–01–M

Presidential Documents

Presidential Determination No. 91–51 of August 29, 1991

Determination Pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as Amended

Memorandum for the Secretary of State

Pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as amended, 22 U.S.C. 2601(c)(1), I hereby determine that it is important to the national interest that $35,300,000 be made available from the U.S. Emergency Refugee and Migration Assistance Fund (the Fund) to meet the unexpected and urgent needs of refugees and other displaced persons in the Middle East and the Horn of Africa.

A total of $13,300,000 will be used to respond to urgent and unforeseen refugee needs in the Middle East of which $6,000,000 will be contributed to the United Israel Appeal to help resettle Ethiopian refugees in Israel and $7,300,000 will be contributed to the United Nations Relief and Works Agency to assist Palestinians in the Occupied Territories and Lebanon. A total of $22,000,000 will be contributed to international organizations, and other governmental and non-governmental agencies to cover urgent and unforeseen needs of refugees and displaced persons in the Horn of Africa.

You are authorized and directed to inform the appropriate committees of the Congress of this determination and the obligation of funds under this authority, and to publish this determination in the **Federal Register**.

George Bush

THE WHITE HOUSE,
Washington, August 29, 1991.

[FR Doc. 91–22459
Filed 9–13–91; 12:17 pm]
Billing code 3195–01–M

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 917

[Docket No. FV-91-415FR]

Expenses and Assessment Rate for Marketing Order Covering Fresh Pears Grown in California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate for the Pear Commodity Committee (committee) for the 1991–92 fiscal year (March 1–February 29) under Marketing Order No. 917. The rule is needed for the committee to incur reasonable operating expenditures during the 1991–92 fiscal year and to collect funds during that year to pay those expenses. This rule facilitates program operations. Funds to administer the program are derived primarily from assessments on handlers.

EFFECTIVE DATE: March 1, 1991, through February 29, 1992.

FOR FURTHER INFORMATION CONTACT: George Kelhart, Marketing Order Administration Branch, F&V, AMS, USDA, PO Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone: (202) 475–3919.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Marketing Order No. 917 (7 CFR Part 917) regulating the handling of fresh pears and peaches grown in California. The 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 final rule has been reviewed by the U.S. Department of Agriculture (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 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 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 about 45 handlers of California pears subject to regulation under Marketing Order No. 917 and about 300 producers of pears in California. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.601) as those with annual receipts of less than $3,500,000 and small agricultural producers have been defined as those having annual receipts of less than $500,000. The majority of these handlers and producers may be classified as small entities.

Marketing orders, administered by the Department, require that assessment rates for a particular fiscal year shall apply to all assessable fresh fruit handled from the beginning of such year. An annual budget of expenses is prepared by the committee and submitted to the Department for approval. The members of the committee are handlers and producers of the regulated commodities. They are familiar with the committee's needs and with the costs for goods, services, and personnel in their local areas, and are thus in a position to formulate an appropriate budget. The budget is formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the committee is derived by dividing anticipated expenses by the number of packages of fresh fruit expected to be shipped under the order. Because that rate is applied to actual shipments, it must be established at a level that will produce sufficient income to pay the committee's expected expenses. Recommended budgets and rates of assessment are usually acted upon by the committee shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approvals must be expedited so that the committee will have funds to pay its expenses.

The committee met June 25, 1991, and unanimously recommended 1991–92 marketing order expenditures of $1,289,824 and an assessment of $0.25 per 36-pound package or equivalent. In comparison, 1990–91 fiscal year expenditures were $1,126,800 and the assessment rate was $0.25 per 36-pound package or equivalent. Major committee expenditures for 1991–92, with actual 1990–91 expenditures in parenthesis, are: Salaries and employee benefits, $88,279 ($97,752); market development and promotion, $1,140,501 ($952,696); and uncollected assessment accounts, $5,000 ($9,256).

The committee estimates available 1991–92 marketing order income at $1,323,006. This amount is based on assessments totaling $990,000 (3,960,000 packages of assessable pears at $0.25 per 36-pound package), less $5,000 in anticipated uncollected assessments. Assessment income will be supplemented with interest income estimated at $4,000, income from export development and research subsidies from State and Federal agencies estimated at $164,000, and a $75,000 grant from the Program Committee of the Pear Zone for fresh pear promotion. In addition, the committee had $90,006 in reserves as of March 1, 1991, an amount well within the maximum authorized. Total income and available reserves will be sufficient to cover all anticipated 1991–92 expenditures.

A proposed rule concerning this action was published in the **Federal Register** on August 9, 1991 (56 FR 37863). A ten day comment period was provided and no comments were received.

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 to producers. However, these costs will be significantly offset by the benefits derived from the operation of the marketing 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.

After consideration of all relevant matter presented, the information and recommendations submitted by the committee, and other available information, it is found that this action 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 approval of the expenses must be expedited. This marketing order's fiscal year began March 1, 1991, and the committee needs sufficient funds to pay its expenses which are incurred on a continuous basis.

List of Subjects in 7 CFR Part 917

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

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

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

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

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

2. A new § 917.254 is added to read as follows:

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

§ 917.254 Expenses and assessment rate.

Expenses of $1,289,824 by the Pear Commodity Committee are authorized, and an assessment of $0.25 per 36-pound package or equivalent of assessable pears, is established for the fiscal year ending February 29, 1992. Unexpended funds may be carried over as a reserve.

Dated: September 12, 1991.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 91–22342 Filed 9–16–91; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 929

[FV–91–414FR]

Expenses and Assessment Rate for Cranberries Grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate under the cranberry marketing order for the 1991–92 fiscal year. This action is needed for the Cranberry Marketing Committee (Committee), the agency responsible for the local administration of the order, to incur operating expenses during the 1991–92 fiscal year and to collect funds during that year to pay those expenses. This will facilitate program operations. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATE: September 17, 1991.

FOR FURTHER INFORMATION CONTACT: Christian D. Nissen, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 382–1754.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 929 (7 CFR Part 929), regulating the handling of cranberries grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. 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 U.S. Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in the 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 final 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 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 30 handlers of cranberries grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, and approximately 950 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) 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 cranberry handlers and producers may be classified as small entities.

The cranberry marketing order requires that the assessment rate for a particular fiscal year shall apply to all assessable cranberries handled from the beginning of such year. An annual budget of expenses is prepared by the Committee and submitted to the Department for approval. The Committee members are cranberry producers. They are familiar with the Committee's needs and with the costs of goods, services, and personnel in their local areas and are in a position to formulate appropriate budgets.

The assessment rate recommended by the Committee is derived by dividing anticipated expenses by expected shipments of cranberries. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the Committee's expected expenses. The recommended budget and rate of assessment are usually acted upon by the Committee before a season starts, and expenses are incurred on a continuous basis. Therefore, the budget and assessment rate approval must be expedited so the Committee will have funds to pay its expenses for the 1991–92 fiscal year beginning on September 1, 1991.

The Committee conducted a mail vote and recommended 1991–92 marketing order expenditures of $167,730 and an assessment rate of $0.037 per 100-pound barrel of cranberries shipped. Subsequently, the Committee met August 14, 1991, and revised the crop estimate. The marketing order expenditures and assessment rate for the 1991–92 season remain the same.

However, with the increase in the production estimate from 3,945,000 barrels to 4,076,500 barrels, the Committee has revised its estimated assessment income from $145,965 to $150,830. Interest income received is estimated at $7,500, raising total income form $153,465 to $158,330. The increase in estimated income reduces the amount the Committee had planned to transfer from its reserve account to meet the deficit between income and expenditures from $14,265 to $9,400. Major budget categories for 1991–92 remain the same: $67,640 for salaries, $37,500 for travel and meeting expenses, and $44,245 for administrative expenses.

In comparison, the 1990–91 marketing year budgeted expenditures were $159,850, and the assessment rate was $0.037 per 100-pound barrel of cranberries shipped. Corresponding budgeted expenditures for the 1990–91 season were $70,995 for salaries, $39,500 for travel and meeting expenses, and $34,425 for administrative expenses.

While this action will impose 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 to producers. However, these costs will be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined this action will not have a significant economic impact on a substantial number of small entities.

This action adds a new § 929.232 and is based on Committee recommendations and other available information. A proposed rule was published in the July 29, 1991 issue of the **Federal Register** (56 FR 35836). Comments on the proposed rule were invited from interested persons until August 20, 1991. No comments were received.

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

This action should be expedited because the Committee needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis. Therefore, it is also found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553).

List of Subjects in 7 CFR Part 929

Cranberries, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 929 is amended as follows:

PART 929—CRANBERRIES GROWN IN MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

1. The authority citation for 7 CFR part 929 continues to read as follows:

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

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

2. Section 929.232 is added to read as follows:

§ 929.232 Expenses and assessment rate.

Expenses of $167,730 by the Cranberry Marketing Committee are authorized, and an assessment rate of $0.037 per 100-pound barrel of assessable cranberries is established for the fiscal year ending on August 31, 1992. Unexpended funds may be carried over as a reserve.

Dated: September 12, 1991.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 91–22341 Filed 9–16–91; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89–ASW–49; Amendment 39–8027, AD 89–20–13]

Airworthiness Directives; Bell Helicopter Textron, Inc., (BHTI) Model 206L, 206L–1, and 206L–3 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons as amendment adopting an airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of certain Bell Helicopter Textron, Inc., (BHTI) Model 206L, 206L–1, and 206L–3 helicopters by individual letters. The AD requires a visual inspection and repair or replacement, as necessary, of the horizontal stabilizer. The AD is necessary to prevent failure of the horizontal stabilizer which, in turn, could cause loss of control of the helicopter.

DATES: Effective October 15, 1991 as to all persons except those persons to whom it was made immediately effective by Priority Letter AD 89–20–13, issued October 4, 1989, which contained this amendment.

ADDRESSES: The applicable AD-related material may be examined at the Rules Docket, Office of the Assistant Chief Counsel, FAA, 4400 Blue Mound Road, room 158, Building 3B, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Ms. Michelle M. Corning, Rotorcraft Directorate, Rotorcraft Certification Office, ASW–170, FAA, Southwest Region, Fort Worth, Texas 76193–0170, telephone (817) 624–5126, fax (817) 624–5988.

SUPPLEMENTARY INFORMATION: On October 4, 1989, Priority Letter AD 89–20–13 was issued and made effective immediately on receipt as to all known U.S. owners and operators of certain Bell Helicopter Textron, Inc., Model 206L, 206L–1, and 206L–3 helicopters. The AD requires a visual inspection of the horizontal stabilizer to determine if the stabilizer has the required external doubler. If the stabilizer does not have the external doubler, removal and replacement of the stabilizer with an approved airworthy part is required prior to further flight. The AD is prompted by a reported incident where a horizontal stabilizer separated from the helicopter in flight and struck the tail rotor. That particular horizontal stabilizer had been manufactured or repaired by Helicomb International, Inc. of Tulsa, Oklahoma. The FAA determined that certain horizontal stabilizers, part number (P/N) 206–023–119–151, have been incorrectly manufactured or repaired. The stabilizers may not have the required overall skin thicknesses, may not have a required external doubler, and otherwise may not conform to the approved type design. This AD is necessary to prevent failure of similar horizontal stabilizers with consequent loss of control of the affected helicopters.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual letters issued October 4, 1989, to all known U.S. owners and operators of certain Bell Helicopter Textron, Inc. Model 206L, 206L–1, and 206L–3 helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to

§ 39.13 of part 39 of the FAR to make it effective as to all persons.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, and Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

AD 89-20-13 **Bell Helicopter Textron, Inc. (BHTI):** Amendment 39-8027. Docket No. 89-ASW-49.

Applicability: All Model 206L, 206L-1, and 206L-3 helicopters, all serial numbers, certificated in any category.

Compliance: Required before further flight, unless already accomplished.

To prevent failure and separation of the horizontal stabilizer form the helicopter, which could result in a strike on the tail rotor, causing loss of control of the helicopter, accomplish the following:

(a) Visually inspect to determine if the horizontal stabilizer installed on the helicopter has the required raised external doubler. The doubler is visible on the top of the stabilizer surface extending approximately 4 inches outward from either side of the tailboom and covering the upper surface of the horizontal stabilizer from within one half inch of the forward leading edge to the trailing edge.

(b) If the horizontal stabilizer installed does not have the required external doubler, remove and replace the stabilizer with an airworthy part before further flight. The addition of an external doubler to the Helicomb International part will not bring the horizontal stabilizer into conformity with the approved type design and will not provide an equivalent level of safety.

(c) Report the registration number of the affected helicopter and the serial number of the discrepant stabilizer if found. This report is to be made to the Manager, Rotorcraft Certification Office, ASW-170, Southwest Region, Federal Aviation Administration, Fort Worth, Texas 76193-0170, telephone (817) 624-5170, within 10 days of the inspection. (Reporting approved by the Office of Management and Budget under OMB No. 2120-0056.)

(d) An alternate method of compliance which provides an equivalent level of safety, may be used if approved by the Manager, Rotorcraft Certification Office, Southwest Region, Federal Aviation Administration, Fort Worth, Texas 76193-0170, telephone (817) 624-5170.

This amendment (39-8027, AD 89-20-13) becomes effective October 15, 1991 as to all persons except those persons to whom it was made immediately effective by Priority Letter AD 89-20-13, issued October 4, 1989, which contained this amendment.

Issued in Fort Worth, Texas, on August 26, 1991.

Henry A. Armstrong,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 91-22297 Filed 9-16-91; 8:45 am]

BILLING CODE 4910-13-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1501

Method for Identifying Toys and Other Articles Intended for Use By Children Under 3 Years of Age Which Present Choking, Aspiration, or Ingestion Hazards Because of Small Parts

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission is revising 16 CFR 1501.5, which sets out its enforcement procedure for identifying toys, and other articles intended for children under three, that are hazardous due to small parts. The purpose of this revision is to correct the CPSC address, the citation to a referenced enforcement guide, and the title of the Assistant Executive Director for Compliance and Enforcement which have changed since issuance of section 1501.5. No substantive changes are being made.

EFFECTIVE DATE: September 17, 1991.

FOR FURTHER INFORMATION CONTACT: Robert G. Poth, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492-6400.

SUPPLEMENTARY INFORMATION: Title 16, part 1501 describes the method for identifying toys and other articles intended for use by children under three years of age which present choking, aspiration, or ingestion hazards because of small parts. Section 1501.5 of the regulation, which concerns the enforcement procedure, contains an incorrect address for the Commission and an obsolete citation for the referenced enforcement guide. That section also contains an incorrect title for the Assistant Executive Director for Compliance and Enforcement. This document corrects the address, reference, and title. The Commission is not making any change to the substance of the small parts regulation.

List of Subjects in 16 CFR Part 1501

Consumer protection, Infants and children, Toys.

PART 1501—METHOD FOR IDENTIFYING TOYS AND OTHER ARTICLES INTENDED FOR USE BY CHILDREN UNDER 3 YEARS OF AGE WHICH PRESENT CHOKING, ASPIRATION, OR INGESTION HAZARDS BECAUSE OF SMALL PARTS

1. The authority citation for part 1501 continues to read as follows:

Authority: Secs. 2(f)(1)(D), (q)(1)(A), (s), 3(e)(1), and 10; 74 Stat. 373, 374, 375, as amended; 80 Stat. 1304-05, 83 Stat. 187-89 (15 U.S.C. 1261, 1262, 1269).

2. Section 1501.5 is revised to read as follows:

§ 1501.5 Enforcement procedure.

The Commission will enforce this regulation, unless it determines that an emergency situation exists, only in accordance with Chapter 2, Guide 2.05—Letter of Advice/Notices of Noncompliance of the CPSC Enforcement Policy and Procedural

Guides, issued in January 1990 and available from the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207. Under the procedure described in this chapter, firms must be informed by letter that they or their products may be the subject of enforcement action and must be provided ten days within which to submit evidence and arguments that the products are not violative or are not covered by the regulation, prior to the initiation of enforcement action by the Commission or by its delegated staff member. The function of approving such enforcement actions is currently delegated by the Commission to the Assistant Executive Director for Compliance and Enforcement (copies of the existing delegation documents are also available from the CPSC's Office of the Secretary).

Dated: September 5, 1991.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 91-21847 Filed 9-16-91; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 705 and 706

Restrictions on Financial Interests of State and Federal Employees, Technical Amendment

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; technical amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the United States Department of the Interior (DOI) is amending its regulations governing the restrictions on financial interests of State and Federal employees. The regulations are being amended to change the name of the Office of Audit and Investigation to the Office of Inspector General as established under the Inspector General Act of 1978. The regulations at Part 705 are further being amended by revising the data on the information collection requirements and by changing the form number on the financial disclosure statement.

EFFECTIVE DATE: September 17, 1991.

FOR FURTHER INFORMATION CONTACT: Peggy Moran-Gicker, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; telephone: 202-208-2965 (Commercial) or 268-2965 (FTS).

SUPPLEMENTARY INFORMATION:

I. Background and Discussion of the Rule Adopted.

II. Procedural Matters.

I. Background and Discussion of the Rule Adopted

The functions, powers, and duties of the Office of Audit and Investigation were transferred to the Office of Inspector General in accordance with section 9(a)(1)(D) of the Inspector General Act of 1978 (Pub. L. 95-452). OSM is amending its regulations at 30 CFR parts 705 and 706 which govern the restrictions on financial interests of State and Federal employees in order to indicate the transfer of authority. In particular, §§ 705.3(c), 705.4(b)(5), 706.4(c), 706.5(b)(1) and 706.5(b)(4) are being revised by removing the words "Office of Audit and Investigation" and by substituting the words "Office of Inspector General."

Section 705.10 is being revised by updating the data concerning the information collection requirements in part 705. The data is being revised by including the estimated response time per respondent and the addresses where comments may be sent concerning the information collection requirements.

Finally § 705.17(a) is being revised by changing the referenced form number on the financial disclosure statement from "OSM Form 705-1" to "OSM Form 23". The content of the form is not being changed.

II. Procedural Matters

Administrative Procedure Act

The minor revisions contained in this rulemaking are technical in nature. Accordingly, pursuant to 5 U.S.C. 553(b)(B), it has been determined that the notice and public comment procedures of the Administrative Procedure Act are unnecessary. For the same reason, it has been determined that in accordance with 5 U.S.C. 553(d), there is good cause to make the rule effective on the date of publication in the **Federal Register**.

Paperwork Reduction Act

This final rule does not contain new or revised collections of information which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et. seq.* The existing collections of information contained in Part 705 have been previously approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1029-0067.

Executive Order 12291 and Regulatory Flexibility Act

The Department of the Interior has determined that this document is not a major rule under the criteria of Executive Order 12291 and that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This determination is based on the technical nature of the amendments contained in the rule.

National Environmental Policy Act

This final rule has been reviewed by OSM and it has been determined to be categorically excluded from the National Environmental Policy Act (NEPA) process in accordance with the Departmental Manual (516 DM 2, appendix 1.10) and the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR 1507.3). This determination is based on the technical nature of the amendments contained in the rule.

Author

The principal author of this rule is Peggy Moran-Gicker, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240; telephone: 202-208-2965 (Commercial) or 268-2965 (FTS).

30 CFR Part 705

Conflict of Interest, Reporting and recordkeeping requirements, Surface Mining, Underground Mining

30 CFR Part 706

Conflict of interest, Surface mining, Underground mining.

Accordingly, 30 CFR parts 705 and 706 are amended as set forth below:

Dated: September 10, 1991.

Richard Roldan,

Deputy Assistant Secretary—Land and Minerals Management.

SUBCHAPTER A—GENERAL

PART 705—RESTRICTIONS OF FINANCIAL INTERESTS OF STATE EMPLOYEES

1. The authority citation for part 705 is revised to read as follows:

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

§§ 705.3 and 705.4 [Amended]

2. In 30 CFR 705.3(c) and 705.4(b)(5) remove the words "Office of Audit and Investigation" and add, in their place, the words "Office of Inspector General."

3. Section 705.10 is revised to read as follows:

§ 705.10 Information Collection.

The collections of information contained in §§ 705.11 and 705.17 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1029–0067. The information is being collected on OSM Form 23 and will be used to meet the requirements of section 517(g) of the Surface Mining Control and Reclamation Act of 1977, which provides that no employee of the State regulatory authority shall have direct or indirect financial interests in any underground or surface coal mining operation. This information will be used by officials of the state regulatory authority to determine whether each State employee complies with the financial interest provisions of section 517(g). The obligation to respond is mandatory in accordance with section 517(g). Public reporting burden for this information is estimated to average 20 minutes per response per state employee and 30 minutes per response per State regulatory authority, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Information Collection Clearance Officer, Office of Surface Mining, 1951 Constitution Avenue NW., room 5415–L, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project 1029–0067, Washington, DC 20503.

§ 705.17 [Amended]

4. In 30 CFR 705.17(a) remove the number "705–1" and add, in its place, the number "23".

PART 706—RESTRICTIONS ON FINANCIAL INTERESTS OF FEDERAL EMPLOYEES

5. The authority citation for part 706 is revised to read as follows:

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

§§ 706.4 and 706.5 [Amended]

6. In 30 CFR 706.4(c), 706.5(b)(1) and 706.5(b)(4) remove the words "Office of Audit and Investigation" and add, in their place, the words "Office of Inspector General."

[FR Doc. 91–22282 Filed 9–16–91; 8:45 am]
BILLING CODE 4310–05–M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 302–1, 302–3 and 302–7

[FTR Amendment 20]

RIN 3090–AE20

Federal Travel Regulation; Separate Relocation Benefits for Employee Members of the Same Immediate Family; Expansion of the Mobile Home Allowance

AGENCY: Federal Supply Service (GSA).

ACTION: Final rule.

SUMMARY: This final rule amends the Federal Travel Regulation (FTR) to allow transferred employees who are members of the same immediate family to receive separate relocation allowances. It also amends the FTR to revise the definition of a mobile home dwelling to include a boat used as the employee's primary residence, and to include as a reimbursable transportation expense the necessary costs of preparing a mobile home for movement and resettling it at the new destination. These changes will enhance benefits paid to employees relocating in the interest of the Government.

EFFECTIVE DATE: The provisions of this final rule are effective September 17, 1991, and apply to employees whose effective date of transfer (date the employee reports for duty at the new official station) is on or after September 17, 1991.

FOR FURTHER INFORMATION CONTACT: Robert A Clauson, Travel Management Division (FBT), Washington, DC 20406, telephone FTS 557–1253 or commercial (703) 557–1253.

SUPPLEMENTARY INFORMATION: This final rule is issued to permit two or more transferred family members separate employee relocation allowances, to include boats used as a primary residence in the definition of a mobile home, and to allow as a transportation expense the costs of preparing a mobile home for movement and resettling it as the new destination.

Separate Familial Allowances

This amendment modifies the rule governing payment of relocation allowances to transferred employees who are members of the same immediate family. Under prior regulation, when employee family members were transferred between old and new duty stations, respectively located close together, only one member of the immediate family could be paid relocation allowances; the other transferred employee family member(s) was eligible for allowances as a family member only.

The new rule allows employee members of the same immediate family, transferred in the interest of the Government, to receive separate relocation benefits. Employee members of the same immediate family have two options in this regard. They must elect either: (1) For all to be paid separate relocation allowances, or (2) for only one of them to be paid separate relocation allowances in which case the others will be paid allowances as a member of the immediate family. Non-employee members of the same immediate family may not receive duplicate allowances when the employee members elect separate allowances; nor may the employee members receive duplicate payment for the same expenses. When transferred employee members of the same immediate family elect to all be paid separate relocation allowances, they must further determine under which employee's authorization for relocation non-employee immediate family members will receive relocation benefits.

Transportation of Mobile Homes

This rule expands the allowances paid to an employee who elects to move a mobile home instead of transporting his/her household goods. Section 302–7.3(a) is reformatted to allow as a transportation expense the costs of preparing a mobile home for movement and resettling it at the destination.

Boats Used as Primary Residences

This rule expands the definition of a mobile home to specifically include a boat used as an employee's primary residence. Prior to this amendment, a boat used as a primary residence was treated as a mobile home based on Comptroller General decisions. This rule specifies that overland transportation costs payable for a boat used as a primary residence shall be the same as for any other mobile home; over-water transportation costs include among other things the cost of fuel, the cost of port or harbor fees, and the cost of commercial towing or pushing by barge.

Cost of Preparing Mobile Homes for Movement and Resettling

This rule expands the transportation allowance to include costs associated with preparing a mobile home for movement and for resettling the mobile home at the destination. Previously, preparation costs were payable only as part of the miscellaneous expenses allowance and were subject to

maximum amounts. In several decisions, the Comptroller General determined that preparation costs could be included as an allowance under authority contained in 5 U.S.C. 5724(b) to pay the transportation costs of relocating a mobile home. Preparation costs include, among other things: The costs of blocking and unblocking; anchoring and unanchoring; labor for removing and installing skirting; separating, preparing, and sealing each section for movement; reassembling the two halves of a double-wide mobile home; and travel lift fees. Preparation costs do not include the cost of electrical and utility connections, although they still are payable as a miscellaneous expense.

The General Services Administration (GSA) has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Parts 302–1, 302–3 and 302–7

Government employees, Relocation allowances and entitlements, Transfers.

For the reasons set out in the preamble, 41 CFR parts 302–1, 302–3, and 302–7 are amended as follows:

PART 302–1—APPLICABILITY, GENERAL RULES, AND ELIGIBILITY CONDITIONS

1. The authority citation for part 302–1 continues to read as follows:

Authority: 5 U.S.C. 5721–5734; 20 U.S.C. 905(a); E.O. 11609, July 22, 1971 (36 FR 13747).

2. The table of contents for subpart A is amended by revising the entry for § 302–1.8 to read as follows:

Subpart A—New Appointees and Transferred Employees

Sec.

* * * * *

302–1.8 Two or more family members employed.

* * * * *

Subpart A—New Appointees and Transferred Employees

3. Section 302–1.4 is amended by revising paragraph (i) to read as follows:

§ 302–1.4 Definitions.

* * * * *

(i) *Mobile home.* Any type of house trailer or mobile dwelling constructed for use as a residence and designed to be moved overland, either by self-propulsion or towing. Also, a boat when used as the employee's primary residence.

* * * * *

4. Section 302–1.8 is revised to read as follows:

§ 302–1.8 Two or more family members employed.

(a) *Members of the same immediate family who are employees.* When two or more employees are members of the same immediate family, the allowances authorized under this chapter shall apply either to:

(1) Each employee separately, in which instance none of the employees is eligible for any allowance as a member of the immediate family; or

(2) Only one of the employees selected in accordance with paragraph (c) of this section, in which case the other employee(s) is eligible for allowances solely as a member(s) of the immediate family.

(b) *Non-employee members of the immediate family.* When two or more employee members of the same immediate family elect separate allowances under paragraph (a)(1) of this section, non-employee members of the immediate family shall not receive duplicate allowances because of the fact that the employee members elected separate allowances.

(c) *Payment limitation.* When employee members of the same immediate family elect separate allowances under paragraph (a)(1) of this section, the employing agency or agencies shall not make duplicate payment for the same expenses.

(d) *Procedures.* A determination as to which of the two alternatives provided in paragraph (a) of this section is selected shall be made in writing and signed by all employee members of the same immediate family. When employee family members elect separate allowances under paragraph (a)(1) of this section, the determination also shall specify under which employee member's authorization non-employee family members will receive allowances. A copy of this determination shall be filed with the agency in which each employee member is employed.

PART 302–3—ALLOWANCE FOR MISCELLANEOUS EXPENSES

5. The authority citation for part 302–3 continues to read as follows:

Authority: 5 U.S.C. 5721–5734; 20 U.S.C. 905(a); E.O. 11609, July 22, 1971 (36 FR 13747).

6. Section 302–3.1 is amended by revising the introductory text of paragraph (b), removing paragraph (b)(2), and redesignating paragraphs (b)(3) through (6) as paragraphs (b)(2) through (5), to read as follows:

§ 302–3.1 Applicability.

* * * * *

(b) *Types of costs covered.* The allowance is related to expenses that are common to living quarters, furnishings, household appliances, and to other general types of costs inherent in relocation of a place of residence (see part 302–7 for specific costs normally associated with relocation of a mobile home dwelling that are covered under transportation expenses). The costs intended to be reimbursed under the miscellaneous expenses allowance include, but are not limited to the following:

* * * * *

PART 302–7—TRANSPORTATION OF MOBILE HOMES

7. The authority citation for part 302–7 continues to read as follows:

Authority: 5 U.S.C. 5721–5734; 20 U.S.C. 905(a); E.O. 11609, July 22, 1971 (36 FR 13747).

8. Section 302–7.1 is amended by revising paragraphs (a) and (b) to read as follows:

§ 302–7.1 Eligibility and limitations.

(a) *Eligibility.* An employee who is entitled to transportation of his/her household goods under part 302–8 shall, instead of such transportation, be entitled to an allowance, as provided in this part, for the transportation of a mobile home for use as a residence. To be eligible for the allowance, the employee shall certify in a manner prescribed by the head of the employing agency that the mobile home is for use as a residence for the employee and/or his/her immediate family at the destination. If an employee is not eligible to receive an allowance for movement of his/her mobile home, he/she may be eligible to receive an allowance based on the transportation of his/her household goods under part 302–8.

(b) *Geographic limitations*—(1) *Overland transportation.* Allowances for transportation of mobile homes overland may be made only for

transportation of such homes within the continental United States (CONUS), within Alaska, and through Canada en route between Alaska and CONUS. Allowances for transportation within the limits prescribed may be paid even though the transportation involved originates, terminates, or passes through locations not covered, provided the amount of the allowance shall be computed on the basis of that part of the transportation which is within CONUS, within Alaska, or through Canada en route between Alaska and CONUS.

(2) *Over-water transportation.* Allowances for transportation of mobile homes over-water may be made only for transportation of such homes from a point of origin either within CONUS or within Alaska to a destination point either within CONUS or within Alaska.

* * * * *

9. Section 302–7.3 is revised to read as follows:

§ 302–7.3 Computation of allowances.

(a) *Transportation by commercial carrier.* When a mobile home is transported by commercial carrier, an allowance for transportation costs shall include the following (see paragraph (d) of this section for preparation fees also allowable as transportation costs):

(1) The carrier's charges for actual transportation of the mobile home in an amount not exceeding the applicable tariff as approved by the Interstate Commerce Commission (or appropriate State regulatory body for intrastate movements) for transportation of a mobile home of the size and type involved for the distance involved, provided any substantial deviation from mileage shown in the standard highway mileage guides is explained;

(2) Ferry fares and bridge, road, and tunnel tolls;

(3) Taxes, charges or fees fixed by a State or other government authority for permits to transport mobile homes in or through its jurisdiction;

(4) Carrier's service charges for obtaining necessary permits; and

(5) Charges for a pilot (flag) car or escort services, when such services are required by State or local law.

(b) *Transportation by private means*—(1) *Overland transportation.* When a mobile homes is transported overland by means other than a commercial carrier, such as when it is towed by a privately owned conveyance, an allowance of 11 cents per mile shall be made as reimbursement for the transportation costs listed in paragraph (a) of this section. In addition, an agency may pay the costs of preparing a mobile home for movement and resettling it at the destination as provided in paragraph (d) of this section. No other allowance shall be made for transportation of the mobile home under this part. However, in addition to the 11-cent allowance and the allowance under paragraph (d) of this section, an agency may pay the mileage allowance for use of a privately owned conveyance as provided in § 302–2.3.

(2) *Transportation over-water.* When a boat used as a primary residence is transported over-water, an allowance for transportation costs shall include, but not be limited to:

(i) The cost of fuel and oil used for propulsion of the boat;

(ii) The cost of pilots or navigators in the open water;

(iii) The cost of a crew;

(iv) Charges for harbor pilots;

(v) The cost of docking fees incurred in transit;

(vi) Harbor or port fees and similar charges relating to entry in and navigation through ports; and

(vii) The cost of towing, whether in tow or towing by pushing from behind.

(c) *Mixed method of transportation.* When a mobile home is transported partly by commercial carrier and partly by private means, the allowances described in paragraphs (a) and (b) of this section apply to the respective portions of the transportation.

(d) *Other allowable transportation costs.* In addition to the allowances provided for in paragraphs (a) through (c) of this section, an allowance for transportation shall include costs generally associated with preparing a mobile home at a point of origin inside Alaska or CONUS for movement and resettling the mobile home at the destination inside Alaska or CONUS. Any costs for preparing a mobile home located outside Alaska or CONUS for movement, and any costs for resettling a mobile home outside Alaska or CONUS shall not be reimbursed. Preparation costs include but are not limited to:

(1) The costs of blocking and unblocking (including anchoring and unanchoring);

(2) The labor costs of removing and installing skirting;

(3) The cost of separating, preparing, and sealing each section for movement;

(4) The cost of reassembling the two halves of a double-wide mobile home; and

(5) Travel lift fees.

(e) *Unallowable costs.* An individual's transportation allowance shall not include the following costs (see part 302–3 which relates to the miscellaneous expenses allowance):

(1) All costs for replacement parts, tire purchases, structural repairs, brake repairs, or any other repairs or maintenance performed;

(2) Costs of insurance for valuation of mobile homes above carriers' maximum liabilities, or charges designated in the tariffs as "Special Service;"

(3) Costs of storage; and

(4) Costs of connecting and disconnecting appliances, equipment, and utilities involved in relocation and costs of converting appliances for operation on available utilities.

(f) *Optional use of Government bill of lading.* Instead of the allowances to the employee provided in paragraphs (a) through (e) of this section, the agency may, when it determines such action to be in the Government's interest, assume direct responsibility for transportation of an employee's mobile home, issuing necessary bills of lading, and paying the costs involved. In such instances, the employee shall not receive any other allowance for the transportation involved and shall be charged any cost the Government must pay under the bill of lading which would not be allowed under this section or which is in excess of that allowable under § 302–7.4.

10. Section 302–7.5 is revised to read as follows:

§ 302–7.5 Advance of funds.

An advance of funds may be allowed an employee for the transportation of a mobile home under the requirements provided in § 302–1.14(a). The amount of advance shall not exceed either the estimated amount allowable under § 302–7.3(a) of the construction cost determined under § 302–7.4. No advance is authorized when a Government bill of lading is used as provided in § 302–7.3(f).

Dated: August 15, 1991.

John P. Hiler,

Acting Administrator of General Services.

[FR Doc. 91–22234 Filed 9–16–91; 8:45 am]

BILLING CODE 6820–24–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 7521]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the

effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register.**

EFFECTIVE DATE: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646–2717, Federal Center Plaza, 500 C Street, Southwest, room 417, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR part 59 et. seq.). Accordingly, the communities will be suspended on the effective date in the fourth column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register.** In the interim, if you wish to determine if a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended.) This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, FEMA, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in Section 2 of the Flood Disaster Protection Act of 1973, the establishment of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate floodplain management, thus placing itself in noncompliance with the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance—floodplains.

1. The authority citation for part 64 continues to read as follows:

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

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Regular program conversions				
Region III				
West Virginia: Gauley Bridge, Town of, Fayette County.	540294	September 22, 1989, Emerg; September 18, 1991, Reg; September 18, 1991, Susp.	September 18, 1991	September 18, 1991.
Region V				
Wisconsin:				
Amery, City of, Polk County	550332	May 13, 1975, Emerg; September 18, 1991, Reg; September 18, 1991, Susp.	do	Do.
Elroy, City of, Juneau County	550201	June 26, 1975, Emerg; September 18, 1991, Reg; September 18, 1991, Susp.	do	Do.
Juneau County, Unincorporated Areas	550580	July 3, 1975, Emerg; September 18, 1991, Reg; September 18, 1991, Susp.	do	Do.
Mauston, City of, Juneau County	550204	July 24, 1975, Emerg; September 18, 1991, Reg; September 18, 1991, Susp.	do	Do.
New Lisbon, City of, Juneau County	550206	July 8, 1975, Emerg; September 18, 1991, Reg; September 18, 1991, Susp.	do	Do.

State and location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Wonewoc, Village of, Juneau County	550208	July 18, 1975, Emerg; September 30, 1988, Reg; September 18, 1991, Susp.	....do....	Do.
Region VI				
Arkansas: Benton County, Unincorporated Areas	050419	April 29, 1988, Emerg; September 18, 1991, Reg; September 18, 1991, Susp.	....do....	Do
Minimal Conversion Region V				
Michigan: Wise, Township of, Isabella County	260823	July 18, 1989, Emerg; September 18, 1991, Reg; September 18, 1991, Susp.	....do....	Do.

Code for reading fourth column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Issued: September 11, 1991.

C.M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 91-22328 Filed 9-16-91; 8:45 am]

BILLING CODE 6718-21-M

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Modified base (100-year) flood elevations are finalized for the communities listed below. These modified elevations will be used in calculating flood insurance premium rates for new buildings and their contents and for second layer coverage on existing buildings and their contents.

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

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

FOR FURTHER INFORMATION CONTACT: Mr. William R. Locke, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-2754.

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

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

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

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

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

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

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

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

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical revisions made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, floodplains.

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

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

§ 65.4 [Amended]

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

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
California	Santa Clara	Unincorporated Areas. (Docket No. 7021).	May 1, 1991, and May 8, 1991, *San Jose Mercury News.*	The Honorable Dianne McKenna, Chairperson, Santa Clara County Board of Supervisors, 70 West Hedding Street, San Jose, California 95110.	April 18, 1991	060337
California	Santa Clara	City of Gilroy. (Docket No. 7021).	May 1, 1991, and May 8, 1991, *The Dispatch.*	The Honorable Roberta Hughan, Mayor, City of Gilroy, 7351 Rosanna Street, Gilroy, California 95020.	April 18, 1991	060340
Colorado	Pueblo	City of Pueblo. (Docket No. 7021).	May 10, 1991, and May 17, 1991, *The Pueblo Chieftain and Star Journal.*	The Honorable Michael A. Occhiato, President of the Council, City of Pueblo, P.O. Box 1427, Pueblo, Colorado 81002.	April 25, 1991	085077
Texas	Fort Bend (FEMA Docket No. 7009).	Unincorporated areas	October 22, 1990, October 29, 1990 *The Herald Coaster.*	The Honorable Roy L. Cordes, Jr., Fort Bend County Judge, P.O. Box 368, Richmond, Texas 77469.	October 16, 1990	480228 B
Texas	Fort Bend (FEMA Docket No. 7018).	Unincorporated areas	April 4, 1991, April 11, 1991, *The Herald Coaster.*	The Honorable Roy L. Cordes, Jr., Fort Bend County Judge, P.O. Box 368, Richmond, Texas 77469.	March 8, 1991	480228 B&C

Issued: September 6, 1991.

C.M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 91-22327 Filed 9-16-91; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket Number FEMA-7035]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Interim rule.

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

DATES: These modified base flood elevations are currently in effect and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

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

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

FOR FURTHER INFORMATION CONTACT: Mr. William R. Locke, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2754.

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

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

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

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

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

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

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

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical revisions made to designated special flood hazard areas on the basis of updated information and imposes no

new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, floodplains.

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

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

§ 65.4 [Amended]

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

State	County	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
California	San Joaquin	Unincorporated Areas	August 15, 1991, August 22, 1991, *The Stockton Record.*	The Honorable George L. Barber, Chairman, San Joaquin County, Board of Supervisors, 222 East Weber Avenue, Room 701, Stockton, California 95201.	August 14, 1991	060299
California	San Joaquin	Unincorporated Areas	August 15, 1991, August 22, 1991, *The Stockton Record.*	The Honorable George L. Barber, Chairman, San Joaquin County, Board of Supervisors, 222 East Weber Avenue, Room 701, Stockton, California 95201.	August 14, 1991	060299
California	San Joaquin	City of Stockton	August 15, 1991, August 22, 1991, *The Stockton Record.*	The Honorable Joan Darrah, Mayor, City of Stockton, 425 North El Dorado Street, Stockton, California 95202.	August 14, 1991	060299
Colorado	Jefferson	Unincorporated Areas	August 22, 1991, August 29, 1991, *Golden Transcript.*	The Honorable John P. Stone, Chairman, Jefferson County, Commissioners, 1700 Arapahoe Street, Golden, Colorado 80419.	August 6, 1991	080087
Illinois	DuPage	Village of Glendale Heights.	August 16, 1991, August 23, 1991, *Daily Journal.*	The Honorable Michael Camera, Village President, Village of Glendale Heights, 300 Civic Center Plaza, Glendale Heights, Illinois 60139.	August 8, 1991	170206
Minnesota	Olmsted	City of Rochester	September 6, 1991, September 13, 1991, *Rochester Post Bulletin.*	The Honorable Chuck Hazama, Mayor, City of Rochester, 224 1st Avenue, S.W., Rochester, Minnesota 55902.	August 21, 1991	275246
Ohio	Lake	City of Mentor	August 16, 1991, August 23, 1991, *Willoughby News Herald.*	The Honorable Julian M. Suso, City Manager, City of Mentor, 8500 Civic Center Boulevard, Mentor, Ohio 44060.	July 31, 1991	390317
South Carolina	Greenville	Unincorporated Areas	August 22, 1991, August 29, 1991, *Greenville News Piedmont.*	The Honorable William J. Estabrook, County Administrator, Green County, 301 University Ridge, Suite 100, Greenville, South Carolina 29601.	August 6, 1991	450094
Tennessee	Shelby	City of Germantown	August 22, 1991, August 29, 1991, *Germantown News.*	The Honorable Charles Salvaggio, Mayor, City of Germantown, P.O. Box 38809, Germantown, Tennessee 38183-0809.	August 8, 1991	470353
Tennessee	Knox	City of Knoxville	August 22, 1991, August 29, 1991, *The News Sentinel.*	The Honorable Victor Ashe, Mayor, City of Knoxville, P.O. Box 1631, Knoxville, Tennessee 37901.	August 14, 1991	475434
Tennessee	Knox	City of Knoxville	September 10, 1991, September 17, 1991, *The News Sentinel.*	The Honorable Victor Ashe, Mayor, City of Knoxville, 400 Main Avenue, Knoxville, Tennessee 37901.	August 22, 1991	475434

State	County	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Tennessee	Shelby	City of Memphis	August 29, 1991, September 5, 1991, *Memphis Daily News.*	The Honorable Richard C. Hacket, Mayor, City of Memphis, 125 N. Mid-America Mall, Suite 200, Memphis, Tennessee 38103.	August 13, 1991	470177
Tennessee	Shelby	City of Memphis	September 12, 1991, September 19, 1991, *Memphis Daily News.*	The Honorable Richard C. Hacket, Mayor, City of Memphis, 125 N. Mid-America Mall, Suite 200, Memphis, Tennessee 38103.	August 26, 1991	470177

Issued: September 6, 1991.

C.M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 91-22325 Filed 9-16-91; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

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

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

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: William R. Locke, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2754.

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

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

The Agency has developed criteria for floodplain management in flood-prone areas in accordance with 44 CFR part 60.

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

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

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

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

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

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. No appeal was made during the ninety-day period and the proposed base flood elevations have not been changed.

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
ALASKA	
Fairbanks North Star Borough (FEMA Docket No. 7019)	
Chena River:	
Downstream of University Avenue	*426
Just downstream of Steese Expressway (Davison Avenue)	*433
Just upstream of Bailey Road	*442
Just downstream of Nordale Road	*457
Approximately 1,200 feet downstream of the confluence of Polatch Creek	*478
Just downstream of Moose Creek Dam	*493
Little Chena River:	
At the confluence with Chena River	*458
At Chena Hot Springs Road	*487
Approximately 2 river miles upstream of Chena Hot Springs Road	*490
Noyes Slough:	
At College Lane	*426
Just upstream of Alder Street	*428
Just downstream of Third Street	*432
At divergence from Chena River	*433
Maps are available for review at the Planning Department, The Borough Administrative Building, 809 Pioneer Road, Fairbanks, Alaska.	
DELAWARE	
Wilmington (city), New Castle County (FEMA Docket No. 7022)	
Delaware River: For its entire shoreline within the community	*10
Maps available for inspection at the City/County Building, 800 French Street, Wilmington, Delaware.	
IDAHO	
Ada County (unincorporated areas) (Docket No. 7019)	
Fivemile Creek:	
700 feet below confluence with Ninemile Creek	*2,541
Just above Linder Road	*2,568
Just above Union Pacific Railroad	*2,611
Just above Interstate Highway 80 north	*2,841
Just downstream of New York Canal	*2,785
Ninemile Creek:	
At confluence with Fivemile Creek	*2,543
Just above Tenmile Road	*2,553
Just above Pine Street	*2,580
Just above Overland Road	*2,632
1,800 feet above Overland Road	*2,633
Eightmile Creek:	
At confluence with Fivemile Creek	*2,643
Just above Overland Road	*2,651
Just above Cloverdale Drive	*2,671
Just downstream of Victory Road	*2,684
Tenmile Creek:	
Approximately 400 feet downstream from Overland Road	*2,614
Just above Overland Road	*2,615
Just above Mesa Street	*2,639
Just above Victory Road	*2,643

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 900 feet upstream from Victory Road	*2,646
Boise River:	
At divergence of South Fork Boise River	*2,590
Approximately 1,050 feet upstream from divergence of South Fork Boise River	*2,596
Approximately 2,000 feet upstream from divergence of South Fork Boise River	*2,593
Approximately 2,550 feet upstream from divergence of South Fork Boise River	*2,597
Maps are available for review at the Ada County Development Services Office, 650 Main Street, Boise, Idaho.	
LOUISIANA	
Minden (city), Webster Parish (FEMA Docket No. 7023)	
Mile Creek:	
At downstream corporate limits	*173
At State Route 3008	*209
Mile Creek Tributary:	
At confluence with Mile Creek	*195
Approximately 250 feet downstream of State Route 159	*237
Maps available for inspection at the City Hall, 520 Broadway, Minden, Louisiana.	
MICHIGAN	
Charter Township of Georgetown, Ottawa County (FEMA Docket No. 7020)	
Lowing-Comstock Drain:	
At mouth	*603
About 800 feet upstream of 28th Avenue	*638
Lowing-Comstock Drain Tributary:	
At mouth	*629
About 1800 feet upstream of 28th Avenue	*648
Huizenga Drain:	
At mouth	*605
Just downstream of Ravenswood Drive	*608
Bliss Drain:	
At mouth	*607
Just downstream of Jackson Street	*648
Bliss Drain Diversion Channel:	
At mouth	*626
At divergence from Bliss Drain	*632
Cedar Lake:	
Along entire shoreline	*608
Maps available for inspection at the Township Office, 263 Church Street, Jenison, Michigan.	
Clare (city), Clare County (FEMA Docket No. 7020)	
Tobacco River:	
At confluence with Lake Shamrock	*826
About 1,900 feet upstream of Woodlawn Avenue	*834
Little Tobacco Drain:	
About 2,650 feet downstream of Sixth Street	*820
Just downstream of Dunlop Road	*833
Maps available for inspection at the Clerk's Office, City Hall, 202 W. 5th Street, Clare, Michigan.	
Wyoming (city), Kent County (FEMA Docket No. 7020)	
Buck Creek:	
About 4,500 feet downstream of abandoned railroad	*629
Just upstream of Byron Center Avenue	*642
About 3,200 feet upstream of Conrail railroad	*667
Maps available for inspection at the Community Development Department, City Hall, 1155 28th Street, S.W., Wyoming, Michigan.	
MINNESOTA	
Duluth Township, St. Louis County (FEMA Docket No. 7023)	
Lake Superior: Within community	*605
Maps available for inspection at the Township Hall, Duluth, Minnesota.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Elk River (city), Sherburne County (FEMA Docket No. 7022)	
Trott Brook:	
Downstream corporate limits	*898
Approximately .5 mile upstream of 221st Avenue	*943
Maps available for inspection at the City Hall, 720 Dodge Avenue, Elk River, Minnesota.	
St. Louis County (unincorporated areas) (FEMA Docket No. 7023)	
St. Louis River:	
At confluence of East Savanna River	*1,244
About 2,250 feet upstream of County Highway 8	*1,246
Floodwood River:	
At confluence with St. Louis River	*1,245
About 1.6 miles upstream of County Road 835	*1,246
East Savanna River:	
At confluence with St. Louis River	*1,244
About 1,000 feet upstream of U.S. Highway 2	*1,245
Lake Superior: Within community	*605
Maps available for inspection at the County Zoning Office, c/o Health Department, 1001 East 1st Street, Duluth, Minnesota, and County Zoning Office, Northland Office Center, 307 South 1st Street, Virginia, Minnesota.	
MISSOURI	
Clarkson Valley (village), St. Louis County (FEMA Docket No. 7019)	
Caulks Creek:	
About 1,100 feet downstream of confluence of Tributary A	*480
About 1,400 feet upstream of confluence of Tributary B	*485
Shotwell Creek:	
About 1,300 feet downstream of Valley Road	*538
Just upstream of Ridgley Wood Drive	*549
Maps available for inspection at the City Hall, Frucon Building, 15933 Clayton Road, Ballwin, Missouri.	
NEW JERSEY	
Beverly (city), Burlington County (FEMA Docket No. 7020)	
Delaware River:	
At downstream corporate limits	*11
At upstream corporate limits	*11
Maps available for inspection at the Code Official's Office, 446 Broad Street, Beverly, New Jersey.	
Clinton (town), Hunterdon County (FEMA Docket No. 7022)	
Beaver Brook:	
Approximately 170 feet upstream of Leigh Street	*195
Approximately 900 feet upstream of Leigh Street	*198
Maps available for inspection at the Municipal Building, 43 Leigh Street, Clinton, New Jersey.	
NEW YORK	
Avoca (town), Steuben County (FEMA Docket No. 7022)	
Cohocton River:	
At upstream side of State Route 415	*1,173
Approximately 1,700 feet upstream of confluence of Goff Creek	*1,175
Goff Creek:	
At confluence with the Cohocton River	*1,174
Approximately 1,050 feet upstream of the confluence with the Cohocton River	*1,174
Maps available for inspection at the Town Hall, 3 Chase Street, Avoca, New York.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Barker (town), Broome County (FEMA Docket No. 7020)	
Tioughnioga River:	
At downstream corporate limits	*898
Approximately 2.2 miles upstream of State Route 12	*913
Chenango River:	
At downstream corporate limits	*898
At upstream corporate limits	*900
Maps available for inspection at the Town Hall, Route 79, Itasca, New York.	
Henrietta (town) Monroe County (FEMA Docket No. 7020)	
East Branch Tributary Red Creek:	
At its confluence with East Branch Red Creek	*530
Approximately 200 feet upstream of State Route 15A (East Henrietta Road)	*571
South Stem East Branch Tributary Red Creek:	
From its confluence with East Branch Tributary Red Creek	*551
At State Route 15A (East Henrietta Road)	*573
Main Stem Allen Creek:	
At downstream corporate limits	*499
At State Route 252	*511
West Branch Allen Creek:	
At its confluence with Main Stem Allen Creek	*500
At State Route 252	*500
West Stem Middle Branch Red Creek:	
At the upstream side of State Route 253 (Lehigh Station Road)	*533
Approximately 25 feet upstream of State Route 253 (Erie Station Road)	*560
East Stem Middle Branch Red Creek:	
At the upstream side of State Route 253 (Lehigh Station Road)	*537
At State Route 253 (Erie Station Road)	*575
Maps available for inspection at the Town Hall, 475 Calkins Road, Henrietta, New York.	
Lockport (town), Niagara County (FEMA Docket No. 7022)	
Tonawanda Creek:	
At downstream corporate limits	*584
At upstream corporate limits	*590
Maps available for inspection at the Town Hall, 6560 Dysinger Road, Lockport, New York.	
Maine (town), Broome County (FEMA Docket No. 7020)	
Nanticoke Creek:	
At downstream corporate limits	*870
At State Route 26	*917
Maps available for inspection at the Town Hall, Lewis Street, Maine, New York.	
Manlius (town), Onondaga County (FEMA Docket No. 7006)	
Pools Brook:	
At County boundary	*408
At downstream side of Erie Canal	*426
At upstream side of Erie Canal	*426
Approximately 1,600 feet upstream of State Route 5	*532
Bishop Brook:	
At Salt Springs Road	*605
Approximately .6 mile upstream of South Eagle Village Road	*1,082
North Branch Bishop Brook:	
At confluence with Bishop Brook	*862
Approximately 350 feet upstream of Palmer Road	*1,240
Crane Brook:	
At confluence with Bishop Brook	*881
Approximately 1.08 miles upstream of confluence with Bishop Brook	*1,007
Eagle Brook:	
At confluence with North Branch Bishop Brook	*1,093
Approximately .8 mile upstream of confluence with North Branch Bishop Brook	*1,171
Round Lake: For its entire shoreline within the community	*423

Source of flooding and location	#Depth in feet above ground. ^Elevation in feet (NGVD)
Green Lake: For its entire shoreline within the community	*420
Maps available for inspection at the Manlius Town Hall, Fayetteville, New York.	
OHIO	
Reynoldsburg (city), Fairfield, Franklin, and Licking Counties (FEMA Docket No. 7022)	
Blacklick Creek:	
Just upstream of Main Street	*860
About 1.17 miles upstream of confluence of Lateral F	*880
Maps available for inspection at the Building and Zoning Office, 7332 East Main Street, Reynoldsburg, Ohio.	
OKLAHOMA	
Bryan County (unincorporated areas) (FEMA Docket No. 7019)	
Red River:	
Approximately 2.2 miles downstream of State Route 120	*515
Approximately 2.0 miles upstream of U.S. Routes 69 and 75	*537
Maps available for inspection at the County Courthouse, 402 Evergreen, Durant, Oklahoma.	
Comanche County (unincorporated areas) (FEMA Docket No. 7010)	
East Cache Creek:	
Approximately 1,200 feet downstream of S.E. Coombs Road	*1,059
Approximately 200 feet upstream of City of Lawton corporate limits	*1,099
Wolf Creek:	
At confluence with East Cache Creek	*1,059
S.W. Coombs Road (City of Lawton corporate limits)	*1,073
West Branch Wolf Creek:	
N.W. Cache Road	*1,191
Approximately 3,000 feet upstream of U.S. Route 62	*1,222
West Branch Wolf Creek Tributary B:	
W.W. Cache Road	*1,218
Approximately 2,000 feet upstream of Dam No. 4	*1,263
Squaw Creek:	
U.S. Routes 281 and 277 (Pioneer Expressway)	*1,079
Approximately 400 feet upstream of U.S. Routes 281 and 277	*1,079
Ninemile Creek Tributary:	
Confluence with Ninemile Creek	*1,091
Approximately 1 mile upstream of N.E. Cache Road	*1,197
West Cache Creek:	
At confluence with Rock Creek	*1,229
Approximately 1,600 feet upstream of Burlington Northern Railroad	*1,256
Crater Creek:	
At confluence with West Cache Creek	*1,200
Approximately .5 mile upstream of U.S. Route 62 (Twin Bridges)	*1,276
Rock Creek:	
At confluence of West Cache Creek	*1,229
Old U.S. Route 62	*1,240
Blue Beaver Creek:	
Approximately 2.7 miles upstream of confluence of West Branch Blue Beaver Creek	*1,176
Approximately 3,400 feet upstream of U.S. Route 62	*1,261
Tributary of Blue Beaver Creek:	
At confluence with Blue Beaver Creek	*1,235
Approximately 3,300 feet upstream of U.S. Route 62	*1,255
West Branch Blue Beaver Creek:	
Approximately 100 feet downstream of Lee Boulevard	*1,189
Approximately 2,000 feet upstream of U.S. Route 62	*1,256
Tributary B of West Branch Blue Beaver Creek:	
At confluence with West Branch Blue Beaver Creek	*1,219
Town of Cache corporate limits	*1,244
Maps available for inspection at the Comanche County Courthouse, Comanche, Oklahoma.	
Delaware Tribe of Western Oklahoma, Caddo County (FEMA Docket No. 7020)	
Cobb Creek:	
At confluence with Washita River	*1,249
Approximately 1.8 miles upstream of East Konner Avenue	*1,256
Sugar Creek:	
Approximately 8 miles upstream of confluence with Washita River	*1,212
Approximately .5 mile downstream of Wichita Avenue	*1,337
Washita River:	
Approximately 3 miles downstream of U.S. Route 281	*1,166
Approximately 1.87 miles upstream of Central Boulevard	*1,193
At the confluence of Two Hatchet Creek	*1,240
Approximately 0.8 mile upstream of Oklahoma-Kansas-Texas Railroad	*1,256
Maps available for inspection at the Delaware Tribal Complex, Anadarko, Oklahoma.	
Lawton (city), Comanche County (FEMA Docket No. 7010)	
East Cache Creek:	
Approximately .6 mile downstream of S.E. Lee Boulevard	*1,068
Upstream corporate limits	*1,099
East Cache Creek Tributary A:	
At confluence with East Cache	*1,075
Approximately 0.5 mile upstream of N.E. Flower Mound Road	*1,140
East Cache Creek Tributary A–1:	
At confluence with East Cache Creek Tributary A	*1,090
Approximately 0.3 mile upstream of N.E. Flower Mound Road	*1,130
Wratton Creek:	
At confluence with East Cache Creek	*1,093
Approximately 0.8 mile upstream of N.E. Flower Mound Road	*1,124
Wratton Creek Tributary:	
At confluence with Wratton Creek	*1,101
Approximately 1.3 miles upstream of N.E. Flower Mound Road	*1,138
East Cache Creek Tributary B:	
At confluence with East Cache Creek	*1,074
At 1,000 feet upstream of 38th Street (S.E)	*1,127
Mission Creek (formerly East Cache Creek Tributary B):	
At confluence with East Cache Creek	*1,088
Approximately 700 feet upstream of N.W. Hilltop Drive	*1,137
Wolf Creek:	
Approximately 1,000 feet upstream of S.W. Coombs Road	*1,074
At confluence of E. Branch and Middle Branch Wolf Creek	*1,114
West Branch Wolf Creek:	
At confluence with Wolf Creek Main Stem	*1,113
Approximately 0.6 mile upstream of U.S. Route 62	*1,222
West Branch Wolf Creek Tributary A:	
At confluence with West Branch Wolf Creek	*1,129
N.W. Cache Road	*1,179
East Branch Squaw Creek:	
At confluence with Squaw Creek	*1,099
Approximately 100 feet downstream of E Avenue	*1,110
Middle Branch Wolf Creek:	
At confluence with Wolf Creek Main Stem	*1,114
Approximately 0.4 mile upstream of N.W. 67th Street	*1,170
East Branch Wolf Creek:	
Confluence with Wolf Creek Main Stem	*1,114
N.W. Rogers Lane	*1,137
West Branch Wolf Creek Tributary B:	
At confluence with West Branch Wolf Creek	*1,173
Approximately 0.5 mile upstream of U.S. Route 62	*1,263
Squaw Creek:	
U.S. Routes 281 and 277	*1,079
N.W. Denver Avenue	*1,163
Ninemile Creek Tributary:	
Approximately .7 mile upstream of S.E. Bishop Road	*1,110
Upstream corporate limits	*1,163
Maps available for inspection at the Planning Department, City Hall, Lawton, Oklahoma.	
PENNSYLVANIA	
Abington (township), Montgomery County (FEMA Docket No. 7022)	
Sandy Run:	
At downstream corporate limits	*223
Approximately 1,400 feet upstream of Easton Road	*260
Tributary No. 1:	
At confluence with Sandy Run	*237
Approximately 450 feet upstream of Johnston Avenue	*238
Maps available for inspection at the Engineering Office, 1176 Old York Road, Abington, Pennsylvania.	
Philadelphia (city), Philadelphia County (FEMA Docket No. 7022)	
Poquessing Creek:	
Approximately 300 feet upstream of State Road	*14
Approximately 0.6 mile upstream of CONRAIL	*135
Maps available for inspection at the Philadelphia City Planning Commission, 1515 Market Street, 17th Floor, Philadelphia, Pennsylvania.	
RHODE ISLAND	
Glocester (town), Providence County (FEMA Docket No. 7017)	
Ponaganset Reservoir:	
Entire shoreline within community	*647
Pascoag Reservoir:	
Entire shoreline within community	*446
Spring Grove Pond:	
Entire shoreline within community	*437
Keech Pond:	
Entire shoreline within community	*438
Smith and Sayles Reservoir:	
Entire shoreline within community	*430
Waterman Reservoir:	
Entire shoreline within community	*333
Mary Brown Brook:	
At downstream corporate limits	*498
Approximately 400 feet upstream of corporate limits	*498
Maps available for inspection at the Office of the Building and Zoning Official, Town Hall, 1137 Putnam Pike, Chepachet, Rhode Island.	
TEXAS	
Bexar County (unincorporated areas) (FEMA Docket No. 7017)	
Mud Creek:	
At the downstream corporate limits	*776
At the upstream corporate limits	*811
Maps available for inspection at the Public Works Department, 414 South Main Street, San Antonio, Texas.	
Tyler (city), Smith County (FEMA Docket No. 7022)	
West Mud Creek:	
Approximately 1.3 miles downstream of U.S. Route 69	*438
Approximately 1,325 feet upstream of Easy Street	*496
West Mud Creek Diversion Channel:	
At divergence from West Mud Creek	*439
At divergence from West Mud Creek Tributary A	*444
West Mud Creek Tributary A:	
Approximately 200 feet upstream of confluence with West Mud Creek	*445
Approximately 1,500 feet upstream of Loop 323	*510
West Mud Creek Tributary A–1:	
At the confluence with West Mud Creek Tributary A	*472

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 1,500 feet upstream of Rice Road	*487
West Mud Creek Tributary B:	
At the confluence with West Mud Creek	*467
Downstream side of Paluxy Drive	*504
West Mud Creek Tributary C:	
Approximately 500 feet upstream of confluence with West Mud Creek	*478
At the Jacksonville Drive	*525
West Mud Creek Tributary C-1:	
At the confluence with West Mud Creek Tributary C	*488
Approximately 650 feet upstream of New Copeland Road	*491
West Mud Creek Tributary M-1:	
At the confluence with West Mud Creek Diversion Channel	*442
At the Jacksonville Road	*487
West Mud Creek Tributary M-2:	
At the confluence with West Mud Creek	*463
Approximately .4 mile upstream of Barbee Drive	*481
West Mud Creek Tributary M-3:	
At the confluence with West Mud Creek	*465
Approximately 1,000 feet upstream of Riack Road	*481
Black Fork Creek:	
Approximately 500 feet upstream of U.S. Route 271	*467
Approximately .7 mile upstream of East Fifth Street	*531
Black Fork Creek Tributary D:	
At the confluence with Black Fork Creek	*468
Approximately 100 feet upstream of Douglas Boulevard	*509
Black Fork Creek Tributary D-3:	
At the confluence with Black Fork Creek Tributary D	*492
At the East Elm Street	*494
Black Fork Creek Tributary M-1:	
At the confluence with Black Fork Creek	*495
Approximately 1,300 feet upstream of Devine Street	*524
Willow Creek:	
Approximately 200 feet downstream of downstream corporate limits	*451
Approximately 400 feet downstream of Parkdale Drive	*481
Maps available for inspection at the City Hall, 212 North Bonner, Tyler, Texas.	
VIRGINIA	
Alleghany County (unincorporated areas) (FEMA Docket No. 7022)	
Wilson Creek:	
At confluence with Jackson River	*1,034
Approximately 2.3 miles upstream of Interstate Route 64	*1,182
Maps available for inspection at the County Administrative Offices, 110 Rosedale Avenue, Covington, Virginia.	
WEST VIRGINIA	
Keyser (city), Mineral County (FEMA Docket No. 7016)	
North Branch Potomac River:	
Approximately 400 feet downstream of confluence of New Creek	*790
Approximately 200 feet upstream of confluence of New Creek	*793
New Creek:	
At the confluence of North Branch Potomac River	*791
Approximately 560 feet downstream of CSX Transportation	*800
Maps available for inspection at Ms. Penny Sanders office, City Clerk, 111 North Davis Street, Keyser, West Virginia.	
Marshall County (unincorporated areas) (FEMA Docket No. 7022)	
Middle Grave Creek:	
At confluence with Grave Creek	*651
Approximately 2,000 feet upstream of confluence of Wetzel Run	*958
Toms Run:	
At confluence with Middle Grave Creek	*692
Approximately 1 mile upstream of confluence with Middle Grave Creek	*752
Wheeling Creek:	
At downstream corporate limits	*691
At Burch Road (County Route 5)	*763
Maps available for inspection at the County Courthouse, 7th Street and Tomlinson Avenue, Moundsville, West Virginia.	
Shinnston (city), Harrison County (FEMA Docket No. 7020)	
West Fork River:	
Approximately 1.2 miles downstream of Bridge Street	*908
Approximately .9 mile upstream of Bridge Street	*915
Shinns Run:	
At confluence with West Fork River	*914
At upstream corporate limits	*914
Maps available for inspection at the City Building, 43 Bridge Street, Shinnston, West Virginia.	

Issued: September 6, 1991.

C.M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 91-22326 Filed 9-16-91; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL MARITIME COMMISSION

46 CFR Part 502

[Docket No. 90-29]

Amendment to Rules of Practice and Procedure; Interest in Reparation Proceedings

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission is adopting a final rule that amends Rule 253 of its rules of practice and procedure, 46 CFR 502.253, Interest in reparation proceedings, specifically to provide a uniform rate of interest on all reparation awards granted under the Shipping Act of 1984 and the Shipping Act, 1916 and to specify the average monthly secondary market rate on six-month U.S. Treasury bills as the applicable interest rate. Under the Intercoastal Shipping Act, 1933, interest on refunds and reparation awards will continue to be computed on the average of the prime rate charged by major banks as published by the Board of Governors of the Federal Reserve System.

EFFECTIVE DATE: October 17, 1991.

FOR FURTHER INFORMATION CONTACT:

Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street, NW., suite 12225, Washington, DC 20573, (202) 523-5740.

Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., suite 1101, Washington, DC 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: The Commission initiated this proceeding by publishing a notice in the **Federal Register**, 55 FR 43,386 (October 29, 1990), that it was proposing to amend Rule 253 of its rules of practice and procedure, 46 CFR 502.253, Interest in Reparation Proceedings. Under the Proposed Rule, interest on awards of reparation for all violations of both the Shipping Act of 1984, 46 U.S.C. app. 1701 *et seq.* ("1984 Act") and the Shipping Act, 1916, 46 U.S.C. app 801 *et seq.* ("1916 Act") was to be based on the average monthly rate on six-month U.S. Treasury bills ("T-bill rate"). The Commission noted that this standard was the one that currently applies only to misrating cases because of a technical quirk in adopting final rules to implement the 1984 Act. The Commission further stated that this standard appears appropriate for all 1984 Act and 1916 Act cases for the same reasons as when it was first adopted, *i. e.*, persons to whom reparation has been awarded would have the additional funds to use or invest and should therefore be compensated according to investment rates in money and capital markets. However, because of specific statutory directives, the Commission proposed that interest on refunds and reparation under sections 3 and 4 of the Intercoastal Shipping Act, 1933, 46 U.S.C. 845, 845a ("1933 Act") be computed on the basis of the average of the prime rate charged by major banks.

Four comments were received on the proposed rule. Because two of these raised matters which, although significant, were arguably outside the scope of the proposed rule, the Commission provided for and received additional comments.

Initial Comments

Initial comments on the proposed rule were submitted by: Sea-Land Service, Inc. ("Sea-Land"); P&O Containers Limited ("P&O"); a group of five conferences [1] ("Conferences"); and the

[1] The Conferences are the Asia North America Eastbound Rate Agreement, Israel Eastbound Conference, Israel Westbound Conference, United States Atlantic and Gulf Ports/Eastern Mediterranean and North Africa Freight Conference, and U.S. Atlantic & Gulf/Western Mediterranean Rate Agreement.

International Association of NVOCCs ("IANVO").

Sea-Land supports the proposed rule but suggests that the final rule specify the "secondary market rate" as the exact T-bill rate which will be applied. Sea-Land contends that this rate is that which the general public can earn on T-bill investments and is, therefore, the most reasonable measure of the investment opportunity lost by a complainant.

The Conferences likewise endorse the proposed rule. They believe that by specifying the rate of interest for all reparation proceedings, the Commission will eliminate a potential collateral issue from such proceedings. They also note that the proposed rate of interest is consistent with that currently used for misrating cases under the 1984 Act and is the rate used in civil actions in United States district courts. The Conferences further point out that the proposed rule establishes a uniform rate for all Commission proceedings under the 1984 Act. Lastly, the Conferences contend that the shipping community will be better served by a procedural rule established in advance, rather than one applied on a case-by-case basis.

P&O also supports the proposed rule, but questions whether a rulemaking is necessary to achieve this result. It notes that in June 1984, the Commission adopted a revision of Rule 253, after notice and comment rulemaking, that applied the T-bill rate to all reparation proceedings. P&O points out that this rule was never amended or withdrawn by the Commission and argues, therefore, that it must be the version considered as remaining in effect. It submits that the limitation presently appearing in Rule 253 (*i.e.*, only misrating cases) was never adopted pursuant to a rulemaking proceeding, as would have been required for such a substantive change to a rule. P&O suggests, therefore, that the Commission could simply correct Rule 253 by publishing the version announced in June 1984.

IANVO, asserting that the issue before the Commission is the interpretation of the term "commercial rates" as used in section 11(g) of the 1984 Act, 46 U.S.C. app. 1710(g), argues that use of a six-month T-bill rate, as proposed, contravenes this section, because T-bill rates, by definition, are not "commercial" rates. IANVO submits that companies injured by Shipping Act violations are not investment companies and that the interest portion of their actual injury should be based on the fact that they had to increase their borrowing rather than decrease their investment activities. It therefore suggests that the Commission adopt the "Bank Prime Loan" rate as published by the Federal Reserve, increased by 1.5 percent. In support of this proposal, IANVO submits a statement by Professor Dennis E. Logue, Associate Dean of the Amos Tuck School of Business Administration at Dartmouth College.

Additional Comments

Neither Sea-Land's proposal with respect to specifying the "secondary market rate" for T-bills nor IANVO's proposal that the Commission adopt the Bank Prime Loan rate, plus 1.5 percent, appeared to be within the scope of the proposed rule, and no one had been given an opportunity to comment on them. Thus, the Commission published a Request for Additional Comments, 56 FR 15580 (April 17, 1991), to provide such opportunity. Additional comments were filed by the National Industrial Transportation League ("League") and a group of conferences similar but not identical to the group filing the initial comments ("Conferences 2").[2]

The League supports the position of IANVO that interest on all reparation orders for violations of the 1984 Act and the 1916 Act be set at the Bank Prime Loan rate plus 1.5 percent. Noting that section 11(g) of the 1984 Act requires that complainants be granted interest to compensate them for "actual injury," the League maintains that using T-bill rates requires acceptance of the unjustified premise that injured parties are by nature entities who lost investment opportunities by paying unlawful rates. Shippers are, however, the League argues, fundamentally manufacturers or other similar business entities whose operating and capital costs, and thus their borrowing costs, were increased by the unlawful action, and thus should be compensated at their borrowing rates, not the lending rates. Using the Bank Prime Loan rate plus 1.5 percent is reasonable, it asserts, because it approximates what a firm's likely capital costs would be.

Conferences 2 oppose IANVO's position and support Sea-Land's position. They maintain that an award of interest at commercial borrowing rates was not intended by the 1984 Act. They highlight the fact that section 11(g) speaks of the "actual injury" to be compensated as "includ(ing) *loss of interest* at commercial rates compounded from the date of injury * * *." (Emphasis supplied.) The use of the emphasized words is said to be consistent with the theory of compensating for lost investment opportunities, but not for the cost of borrowing funds, which is IANVO's theory. Had Congress intended to adopt such an approach, Conferences 2 contend, it would have so indicated, as it did in the 1933 Act, which requires interest on reparation to be "computed on the basis of the average of the prime rate charged by major banks, as published by the Board of Governors of the Federal Reserve System * * *." *See* 46 U.S.C. app. 845a. Conferences 2 point out that the Commission has consistently awarded interest on reparation for all types of violations of the 1984 Act at the six-month T-bill rate. Lastly, they maintain that Sea-Land's position is appropriate because it would merely allow an injured party to receive a rate of interest available to the general public. Sea-Land's proposal allegedly does not modify the rule as proposed by the Commission, but only clarifies the exact rate of interest to apply.[3]

Discussion

At the outset, we note that there may be merit to the position advanced by P&O—*i.e.*, that the present limitation on the granting of interest to misrating cases is ineffective because the Commission's June 1984 final rule on interest in reparation proceedings was never amended or modified pursuant to notice and comment rulemaking. Prior to enactment of the 1984 Act, Rule 253, as applied to the 1916 Act, was limited to cargo misrating cases. See Interest in Reparation Proceedings, 20 S.R.R. 1511 (1981). However, in proposing a new Rule 253 to implement the 1984 Act, the Commission expressly expanded the scope of the rule to *all* reparation proceedings. Docket No. 84–17, Notice of Proposed Rulemaking, 49 FR 17044 (April 23, 1984). When the Commission issued its final Rule 253, it was likewise made applicable to all reparation proceedings. See Interest in Reparation Proceedings, 22 S.R.R. 1069 (1984), 49 FR 26054 (June 26, 1984).

Subsequently, on November 5, 1984, the Commission adopted final rules relating to subchapter A of its rules, the General and Administrative Provisions. The Commission explained that it was making substantive changes to only part 500 (standards of conduct) and § 502.32

[2] The additional comments were filed on behalf of Asia North America Eastbound Rate Agreement, Israel Eastbound Conference, The "8900" Lines Agreement, United States Atlantic & Gulf/Western Mediterranean Rate Agreement, and United States Atlantic & Gulf Ports/Eastern Mediterranean and North African Freight Conference.

[3] The Commission rejected, as untimely and as an unauthorized reply, a letter from Corporate Counsel of P&O in support of Sea-Land's comments mailed after the time for additional comments had expired.

(restrictions on former employees), but that it also made "technical changes" in other provisions in subchapter A based on its further review of these regulations since the passage of the 1984 Act. See Final Rules in Subchapter A, General and Administrative Provisions, 22 S.R.R. 1298, 1299 (1984). The Commission specifically stated that it was making "no changes in substance" and was, therefore, promulgating these rules as final without the need for comment. *Id.* Unfortunately, during the course of this process the present limitation was apparently inadvertently included in Rule 253. As a result, it no longer read as applying to all reparation proceedings, but rather only to cargo misrating cases. Such a change could be viewed as "substantive," which could only have been accomplished after notice and comment rulemaking as required by the Administrative Procedure Act, 5 U.S.C. 553.[4] It, therefore, might be possible for us to revert to the June 1984 version of Rule 253, explaining that in doing so we merely rectify the above-described inadvertent error.[5]

Simply to say now that Rule 253 always applied to all reparation proceedings fails, however, to address the basic issue which has emerged in this proceeding—whether interest should be based on an "investment" or a "loan" theory. Although the loan theory advanced by IANVO and the League is not without some support in logic, we conclude that the investment theory is more in keeping with Congress' action with respect to interest under the 1916 and 1984 Acts.

Although the 1916 Act contains no specific language on the payment of interest, the Commission has historically awarded interest as a part of its authority to grant "full reparation" for statutory violations. See, 46 U.S.C. app. 821.[6] It, moreover, explicitly rejected the "forced loan" theory of the calculation of interest under the 1916 Act in 1981 when it promulgated Rule 253 for the payment of interest at a T-bill rate. See Interest in Reparation Proceeding, 20 S.R.R. at 1513–14.

Under the 1984 Act, Congress explicitly provided for the award of interest as a part of reparation awards. Section 11(g) of the 1984 Act provides that the "actual injury" for which reparations are to be paid "includes the *loss of interest* at commercial rates * * *." (Emphasis supplied.) In determining legislative intent, the Commission must give meaning to all of the language of the statutes it administers. See *Volkswagenwerk* v. *FMC*, 390 U.S. 261, 275 (1968). Congress could have simply stated that "actual injury includes interest at commercial rates." But the use of the construct "loss of interest" seems to indicate a Congressional intent to treat an interest award as a lost investment opportunity on the part of the injured party. This is the position the Commission took in adopting a new Rule 253 after enactment of the 1984 Act. The notice of proposed rulemaking issued then explained why the Commission was considering the T-bill standard for section 11(g) as follows:

> The term "commercial rates" is interpreted to mean the rates of interest on marketable securities which are widely available to commercial entities. A rate of interest is assessed on reparation awards in order to make the complainant whole. This is intended to compensate the claimant for the loss of monies during the injury period. In theory, the injured party is entitled to compensation for the monies lost plus any interest which might have been received, had those funds been invested during the period.

49 FR at 17044 (April 23, 1984) (Emphasis supplied). The Commission ultimately chose the T-bill rate because it was a benchmark interest rate that established a reasonable level of compensation. 22 S.R.R. at 1072. The Commission further noted that, under Rule 253, the Commission itself would do whatever calculations were necessary to determine the correct amount of interest, thereby reducing the potential for error. *Id.* at 1071.

The 1984 Act contains no definition of "commercial rates", nor does the legislative history indicate exactly what was intended by the term. What little discussion of interest exists is consistent with the payment of interest on an "investment theory." [7] The Commission, in establishing its regulations on T-bill rates in 1981, characterized the T-bill rate of interest as "commercial." *See* 20 S.R.R. at 1513–14; see also 22 S.R.R. at 1072. Although Congress did not specifically discuss this usage, "(t)he longevity of the Commission's stance and congressional inaction suggests the absence of contrary legislative intent * * *." *National Customs Brokers & Forwarders* v. *United States*, 883 F.2d 93, 102, n.11 (D.C. Cir. 1989). Congress advised only that it "expects that the FMC will establish a standard rate of interest and method for compounding that interest." H.R. Rep. No. 53, Part 2, 98th Cong, 1st Sess. 29 (July 1, 1983). Had Congress preferred that the Commission adopt a "loan" theory of interest, it is logical to assume it would have so provided, as it did in the 1933 Act. But Congress showed no such preference with respect to interest under the 1916 and 1984 Acts. Congress has, moreover, generally provided a T-bill rate for interest awards on money judgments in civil cases in United States district courts. See 29 U.S.C. 1961(a).

We conclude that the investment theory is the appropriate one to adopt for interest under the 1916 and 1984 Acts as most in keeping with the language and legislative history of the 1984 Act and the practice under the 1916 Act which Congress did not overturn.

There is no challenge to Sea-Land's suggestion that the secondary market rate for T-bills be used in the computation of interest under the 1916 and 1984 Acts.[8] The secondary rate is the most appropriate as it is the one available to the general public. It is, moreover, the one which is presently used by the Commission's Secretary in calculating interest rates.[9] We will

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[4] The Administrative Procedure Act contains an exception to the notice and comment requirement for "rules of agency organization, procedure, or practice" (5 U.S.C. 553), but this exception does not appear to be applicable here. See, *e.g.*, *Air Transport Ass'n of America* v. *DOT*, 900 F.2d 369 (D.C. Cir. 1990), *vacated on other grounds*, 111 S.Ct. 944 (1991); *National Motor Freight Traffic Ass'n* v. *United States*, 268 F.Supp. 90, 96–97 (D.D.C. 1967), *aff'd mem.*, 393 U.S. 18 (1968); *Batterton* v. *Marshall*, 648 F.2d 694, 707–08 (D.C. Cir. 1980).

[5] The T-bill rate has in fact been treated as applicable in interest computations in proceeding of all types under the 1984 Act since its passage. See *e.g.*, *California Shipping Line, Inc.* v. *Yangming Marine Transp. Corp.*, 25 S.R.R. 400, 432 (1989), reversed on other grounds, 25 S.R.R. 1212 (1989); *Secretary of the Army* v. *Port of Seattle*, 24 S.R.R. 17, 32 (1987), aff'd in part, 24 S.R.R. 595 (1987). See also *International Association of NVOCCs* v. *Atlantic Container Line*, 25 S.R.R. 675, 700–03 (ALJ Kline 1990).

[6] See, *e.g.*, *Oakland Motor Car Co.* v. *Great Lakes Transit Corp.*, 1 U.S.S.B.B. 308, 312 (1934); *United States Borax & Chemical Corporation* v. *Pacific Coast European Conference et al.*, 11 F.M.C. 451, 470 (1968), citing *L.&N.R.R.* v. *Sloss-Sheffield Co.*, 269 U.S. 217, 239 (1925), where the Court recognized the loss of interest on charges unlawfully collected as an element of damages.

[7] See Statement of the National Customs Brokers & Forwarders Association of America, Inc.,— Hearings on H.R. 1878 before the Subcommittee on Merchant Marine of the Committee on Merchant Marine and Fisheries, House of Representatives, 98th Cong., 1st Sess. 11 (March 22, 1983): "Forwarders obtaining reparations only for actual injury would be out-of-pocket, since they could not recoup for *the loss of the use of money*, their costs of litigation or attorneys' fees." (Emphasis supplied.)

[8] Although the League challenged the basic approach advocated by Sea-Land, it did not express a preference for the type of T-bill rate to be used if the Commission chose to adopt an "investment" approach to interest computation.

[9] The notice of proposed rulemaking for the 1984 revision making the T-bill rate applicable to all reparation proceedings explicitly stated that "(i)t is proposed that the secondary market interest rates on six-month U.S. Treasury bills be used as the reparations rate of interest." 49 FR 17044 (April 23, 1984).

therefore codify this practice in our revision of Rule 253.

Lastly, we adopt as part of the final rule the provision in the proposed rule dealing with refunds and reparation proceedings under the 1933 Act. That provision is unopposed and merely restates the interest standard set forth in sections 3 and 4 of the 1933 Act. See 46 U.S.C. app. § 845 and 845a.

The Federal Maritime Commission has determined that this rule is not a "major rule" as defined in Executive Order 12291, dated February 17, 1981, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) 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.

The Chairman of the Federal Maritime Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units or small governmental jurisdictions.

The Paperwork Reduction Act, 44 U.S.C. 3501–3520, does not apply to this rule because the amendments to part 502 of title 46, Code of Federal Regulations, do not impose any additional reporting or record keeping requirements or change the information collection requirements which require the approval of the Office of Management and Budget.

List of Subjects in 46 CFR Part 502

Administrative practice and procedure.

Therefore, pursuant to 5 U.S.C. 551, 553, and 559, part 502 of title 46 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 502 continues to read as follows:

Authority: 5 U.S.C. 504, 551, 552, 553, 559; 12 U.S.C. 1141(a); 18 U.S.C. 207; 28 U.S.C. 501(c)(3); 28 U.S.C. 2112(a); 46 U.S.C. app. 817, 820, 821, 826, 841a, 1114(b), 1705, 1707–1711, 1713–1716; E.O. 11222 of May 8, 1965 (30 FR 6469); and 21 U.S.C. 862.

2. Section 502.523 is revised to read as follows:

§ 502.253 Interest in reparation proceedings.

Except as to applications for refund or waiver of freight charges under § 502.92 and claims which are settled by agreement of the parties, and absent fraud or misconduct of a party, interest granted on awards of reparation in complaint proceedings instituted under the Shipping Act of 1984, the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933, will accrue from the date of injury to the date specified in the Commission order awarding reparation. Compounding will be daily from the date of injury to the date specified in the Commission order awarding reparation. Normally, the date specified within which payment must be made will be fifteen (15) days subsequent to the date of service of the Commission order.

(a) On awards of reparation granted under the Shipping Act of 1984, or the Shipping Act, 1916, interest shall be computed on the basis of the average monthly secondary market rate on six-month U.S.Treasury bills commencing with the rate for the month that the injury occurred and concluding with the latest available monthly U.S. Treasury bill rate at the date of the Commission order awarding reparation. The monthly secondary market rates on six-month U.S. Treasury bills for the reparation period will be summed up and divided by the number of months for which interest rates are available in the reparation period to determine the average interest rate applicable during the period.

(b) On refunds ordered under section 3(c)(2) and awards of reparation granted under section 4 of the Intercoastal Shipping Act, 1933 interest shall be computed on the basis of the average of the prime rate charged by major banks, as published by the Board of Governors of the Federal Reserve System during the period to which the reparation applies. (Rule 253.)

By the Commission.[10]

Joseph C. Polking,

Secretary.

Commissioner Quartel's Dissent to Docket No. 90–29

The Commission's adoption of an "investment theory" (and thus the T–Bill rate) for reparations for violations of the 1984 Act and the 1916 Act is inconsistent with the explicit language of section 11(g) of the 1984 Act, which requires that complainants be granted interest to compensate them for "actual injury." That the Commission has a history, as described in the majority opinion, of incorrectly applying the standard is no excuse for its continuance.

[10] Commissioner Quartel's dissent is attached.

The proper standard for the Commission to have taken is that proposed by the International Association of NVOCC's and supported by other shippers (eg., the National Industrial Transportation League), that is, at the commercial loan rate of Bank Prime plus 1.5 percent.

The majority opinion reflects both a persistent Commission bias towards carriers and against shippers; and a manifest inability to understand the real world transactions which occur in commercial markets.

[FR Doc. 91–22244 Filed 9–16–91; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

48 CFR Parts 302, 304, 306, 307, 313, 315, 333, and 352

Acquisition Regulation; Miscellaneous Amendments

AGENCY: Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: The Department of Health and Human Services (HHS) is amending its acquisition regulation (HHSAR), title 48, Code of Federal Regulations, chapter 3, to make numerous administrative changes.

EFFECTIVE DATE: September 17, 1991.

FOR FURTHER INFORMATION CONTACT: Ed Lanham, Procurement Analyst, Division of Acquisition Policy, telephone (202) 245–8890.

SUPPLEMENTARY INFORMATION: The Department is amending its acquisition regulation in part 302 to update changes in title or office designation, and in part 304 to raise a dollar threshold. Part 306 is being amended to change terminology to conform to the corresponding terms in the Federal Acquisition Regulation (FAR), chapter 1 of title 48, Code of Federal Regulations. Part 307 is being amended to update titles and to add clarifying language. Part 313 is being amended to change terminology to conform to that in corresponding sections of the FAR, and to add clarifying language. Part 315 is amended to update the title of a Departmental publication and to correct references. Part 333 is amended to renumber and reletter subpart 333.1 so that it corresponds to the counterpart subpart of the FAR. Part 352 is amended to delete a contract clause which has been determined to no longer be necessary.

The Department of Health and Human Services adheres to the policy that the public, or certain elements comprising it,

should have the opportunity to provide comments on the regulations which may have an impact on them. The Department has determined, however, that this rule contains no amendments that would have a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of the Department. As a result, the Department is not requesting comments on these acquisition regulations, and is publishing them as a final rule.

The Department of Health and Human Services certifies this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.); therefore, no regulatory flexibility statement has been prepared. Furthermore, this document does not contain information collection requirements needing approval by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

The provisions of this regulation are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

List of Subjects in 48 CFR Parts 302, 304, 306, 307, 313, 315, 333, and 352

Government procurement.

Accordingly, the Department of Health and Human Services amends 48 CFR chapter 3 as set forth below.

Dated: August 22, 1991.

James F. Trickett,

Deputy Assistant Secretary for Management and Acquisition.

As indicated in the preamble, chapter 3 of title 48 Code of Federal Regulations is amended as shown.

1. The authority citation for parts 302, 304, 306, 307, 313, 315, 333, and 352 continues to read as follows:

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

PART 302—[AMENDED]

302.100 [Amended]

2. The definition "principal official responsible for acquisition" in section 302.100 is amended by replacing the title following the designation for "HCFA" with "Director, Office of Acquisition and Grants, Office of Budget and Administration", and for "SSA" with "Associate Commissioner, Office of Acquisition and Grants".

PART 304—[AMENDED]

304.870 [Amended]

3. Section 304.870, paragraphs (c) (1) and (2) are amended by removing the dollar threshold "$250,000" and replacing it with "$500,000".

PART 306—[AMENDED]

306.304 [Amended]

4. Section 306.304 is amended by making the following changes to paragraph (a)(1). In the first sentence, remove the phrase "For small purchases over $1,000 up to and including $25,000," and replace it with the phrase "For purchases in excess of 10 percent of the small purchase limitation but not over the small purchase limitation,". In the second and last sentences, remove the dollar threshold "$25,000", and replace it with the phrase "the small purchase limitation".

PART 307—[AMENDED]

307.170 [Amended]

5. Section 307.170 is amended as follows:

a. In paragraph (a)(1), remove the phrase "basic or advanced 'Program Officials Guide to Contracting' training" and substitute the phrase "appropriate 'Base Project Officer' ".

b. In paragraph (a)(2), remove the phrase "basic 'Program Officials Guide to Contracting' training" and substitute the phrase "appropriate 'Basic Project Officer' ".

c. In paragraph (b), remove the period at the end of the first sentence and add "of the cognizant contracting activity."

307.170–1 [Amended]

6. Section 307.170–1 is amended as follows:

a. In paragraph (a)(1), at the end of the sentence, remove the phrase "the prerequisite training course, although it is recommended." and replace it with "any of the referenced training courses, although completion of an appropriate 'Basic Project Officer' course is recommended."

b. In paragraphs (a)(2) and (b)(1), remove the phrase "HHS publication, 'The Negotiated Contracting Process—A Guide for Project Officers,' " and replace it with "DHHS Project Officers' Contracting Handbook,' ".

c. In paragraph (b)(2), remove the phrase "basic or advanced training course, as appropriate." and replace it with "and appropriate 'Basic Project Officer' course."

307.170–2 [Amended]

7. Section 307.170–2 is amended as follows:

a. In paragraph (a)(1), remove the phrase "basic training course, 'Program Officials Guide to Contracting.' " and replace it with "appropriate 'Basic Project Officer' course." Also, add the following after the parenthetical sentence appearing at the end of the paragraph: "All project officers are encouraged to take the appropriate 'Writing Statements of Work' course."

b. In paragraph (a)(2), insert the word "appropriate" between the words "the" and "basic", and insert "(and encouraged)" between the words "qualified" and "to". Also in paragraph (a)(2), remove the phrase "advanced 'Program Officials Guide to Contracting' training" and substitute ' "Advanced Project Officer' " in its place.

c. Add a new paragraph (a)(3) to read as follows:

307.170–2 Training course prerequisites.

(a) * * *

(3) Additional information on prerequisites for attendance of these courses may be found in the "DHHS Acquisition Training and Certification Program Handbook."

* * * * *

d. In paragraph (b), remove the word "basic" in the first sentence and substitute "appropriate 'Basic Project Officer' ". In the second sentence, remove the word "advance" and substitute "appropriate 'Advanced Project Officer' ".

PART 313—[AMENDED]

313.106 [Amended]

8. Section 313.106 is amended as follows:

a. Paragraph (a) is amended by revising the heading of the paragraph to read *"Purchases not over 10 percent of the small purchase limitation."* In the first sentence of paragraph (a), remove the phrase "over $1,000" and substitute "exceeding this limit". Also in the first sentence, insert the phrase "the documentary requirements of" between the words "from" and "FAR". In the second sentence, remove the phrase "not over $1,000".

b. Paragraph (b) is amended by revising the heading to read *"Purchases over 10 percent of the small purchase limitation."* In addition, paragraph (b)(4)(i)(D) is revised to read: § 313.106 competition and price reasonableness.

* * * * *

(b) * * *

(4)(i)(D) Women-owned small business.

* * * * *

c. Paragraph (c) is amended by revising the heading to read *"Data to support small purchases over 10 percent of the small purchase limitation."* Paragraph (c)(2) is amended by removing the first sentence, and substituting "Purchases ranging in excess of 10 percent of the small purchase limitation up to and including the small purchase limitation which are

made without full and open competition require justification as to why competition was not obtained."

313.107 [Amended]

9. Section 313.107 is amended by redesignating existing paragraph (d) as paragraph (e).

313.204 [Amended]

10. Section 313.204 is amended by redesignating paragraph (e) as paragraph (e)(5). Also, the first sentence is amended by removing the word "tickets" and substituting the words "documents, invoices, etc.," and by inserting a "comma" between the words "service" and "will". The second sentence is amended by removing the phrase "delivery tickets and properly itemized invoice." and substituting "document, invoice, etc." In the third sentence, remove the word "activities" and replace it with "offices".

PART 315—[AMENDED]

315.406-5 [Amended]

11. Paragraph 315.406-5(b)(3)(ii)(c) is redesignated as paragraph (b)(3)(ii)(C) and amended by revising the reference to "HHS Publication (OS) 74-115 entitled, 'Control of Property in Possession of Contractors,'" to read "HHS Publication (OS) 686, entitled 'Contractor's Guide for Control of Government Property (1990)',".

315.905-71 [Amended]

12. Section 315.905-71(d) is amended by revising reference to "353.301-674", in the last sentence, to read "353.370-674".

315.7002 [Amended]

13. Paragraph 315.7002(a) is amended by removing reference to "$250,000" and by substituting the term "the small purchase limitation".

PART 333—[AMENDED]

333.102 [Amended]

14. Section 333.102 is amended by redesignating paragraph (c) as paragraph (d).

333.103 [Amended]

15. Section 333.103 is amended as follows:

a. Paragraph (a) is redesignated as paragraph (a)(2).

b. The designation for paragraph (b)(1) is removed, and the contents of the paragraph is added to the end of paragraph (b) introductory text.

c. Paragraphs (b) introductory text and (2) are redesignated as paragraphs (a) (3) and (4).

d. The reference in the last sentence of the introductory text of new paragraph (a)(3) ("333.104(a)(2)") is amended to read "333.104(a)(3)".

333.104 [Amended]

16. Section 333.104 is amended as follows:

a. Paragraphs (a) (2) through (6) are redesignated as paragraphs (a) (3) through (7) respectively.

b. In newly redesignated paragraph (a)(3)(vii), the reference "33.104(c)" is revised to read "33.104(c)(4)".

c. In newly redesignated paragraph (a)(3)(viii), the reference "33.104(a)(3)" is revised to read "33.104(a)(4)".

d. In newly redesignated paragraph (a)(4), and the reference "FAR 33.104(a)(3)" is revised to read "FAR 33.104(a)(4)".

e. In newly redesignated paragraph (a)(5), and the two references to "333.104(a)(2)" are revised to read "333.104(a)(3)".

f. In newly redesignated paragraph (a)(5), the reference to "FAR 33.104(a)(4)" is revised to read "FAR 33.104(a)(5)".

g. In newly redesignated paragraph (a)(6)(i), the reference to "FAR 33.104(a)(5)(i)" is revised to read "FAR 33.104(a)(6)(i)", and the reference to "333.104(a)(2)" is revised to read "333.104(a)(3)".

h. In paragraph (c)(6), the reference to "333.104(a)(2)" is revised to read "333.104(a)(3)", and the reference to "333.104(a)(4)" is revised to read "333.104(a)(5)".

i. Paragraphs (f) and (h) are redesignated as paragraphs (g) and (i) respectively.

j. In newly redesignated paragraph (g), the reference to "FAR 33.104(f)" is revised to read "FAR 33.104(g)".

k. In newly redesignated paragraph (i), the reference to "333.104(a)(2)" is revised to read "333.104(a)(3)".

333.105 [Amended]

17. Section 333.105(b)(10) is amended by revising the reference "333.104(a)(2)(vii) through (xii)" to read "333.104(a)(3)(vii) through (xii)".

PART 352—[AMENDED]

352.252-2 [Removed]

18. Section 352.252-2 is removed.

[FR Doc. 91-22241 Filed 9-16-91; 8:45 am]

BILLING CODE 4150-04-M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 501, 502, 504, 509, 513, 514, 515 and 524

[APD 2800.12A CHGE 27]

General Services Administration Acquisition Regulation; Miscellaneous Changes

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) is amended to revise paragraphs (a) and (d) of section 501.670-4 to clarify and distinguish when legal approval/review is or is not required and to correct a typographical error in paragraph (a)(4); to amend section 502.101 by revising paragraphs (1) and (3) to reflect the current position title of the agency competition advocate and the establishment of a position title of "IRMS Competition Advocate" in the Office of Information Resources Management Policy; to revise subpart 504.4 to reflect organizational changes and to change the correspondence symbol of CTR to CES; to amend section 509.406-3 by deleting material in paragraph (b)(9) that duplicates material in paragraphs (b)(7) (ii) and (iii); to amend section 513.7001 by revising paragraph (g) to make it clear that the date to be time stamped on the invoice is the date the invoice is received and not the date the supplies or services are received and provide uniformity in marking of invoices; to amend section 514.203-1 by revising paragraph (a) to delineate the circumstances when incumbent contractors do not have to be provided solicitation documents; to make an editorial correction in section 514.404-2; to add section 515.408 to specifically identify the incumbent contractor as a potential source to be solicited except under restricted circumstances and to include offerors responding to recent similar solicitations in the term "potential sources;" to make an editorial correction in section 515.411; to add section 515.1001 to exempt small business—small purchase set-asides from preaward notice requirements; to amend sections 515.1070 and 524.202 to reflect the current version of GSA Order 1035.11B, and to correct the acronym for the Freedom of Information Act. The intended effect is to improve the regulatory coverage and to provide uniform procedures for contracting under the regulatory system.

EFFECTIVE DATE: September 13, 1991.

FOR FURTHER INFORMATION CONTACT: Paul L. Linfield, Office of GSA Acquisition Policy (202) 501–1224.

SUPPLEMENTARY INFORMATION:

A. Public Comments

This rule was not published in the Federal Register for public comment because it does not have effect beyond the internal operating procedures of the agency.

B. Executive Order 12291

The Director, Office of Management and Budget (OMB), by memorandum dated September 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. 96–354) does not apply to this rule because it is not a "significant revision" as defined in FAR 1.501–1; i.e., it does not have a significant effect beyond the internal operating procedures of the agency.

D. Paperwork Reduction Act

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

List of Subjects in 48 CFR Parts 501, 502, 504, 509, 513, 514, 515 and 524

Government procurement.

48 CFR Parts 501, 502, 504, 509, 513, 514, 515 and 524 are amended as set forth below.

1. The authority citation for 48 CFR parts 501, 502, 504, 509, 513, 515, 514 and 524 continues to read as follows:

Authority: 40 U.S.C. 486(c).

PART 501—GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION

2. Section 501.670–4 is amended to revise paragraph (a), (a)(4), (a)(5), (a)(26), and paragraphs (d) through (d)(4) to read as follows:

501.670–4 Legal review.

(a) Action must not be taken on the following matters without obtaining legal counsel's prior written approval for legal sufficiency, unless this requirement is waived in accordance with paragraph (c) of this section.

* * * * *

(4) Determinations and findings required by the FAR, GSAR, or other appropriate authority (see FAR subpart 1.7 and GSAR subpart 501.7) and justifications to use other than full and open competition (see FAR subpart 6.3).

(5) Solicitations which deviate from provisions or clauses prescribed in the FAR or GSAR, unless a class deviation has been approved under 501.404, or which include new provisions or clauses that have not been reviewed for legal sufficiency.

* * * * *

(26) Regulations, orders, directives or other issuances (e.g. clause manuals, guide solicitation, etc.) affecting the acquisition process.

* * * * *

(d) Legal review of the following types of contract modifications is not required:

(1) Administrative modifications (i.e., modifications that do not affect the contract term, price, quality or quantity of work, contract requirements, or the completion date/time of delivery).

(2) Modifications (i) to exercise options that were priced and evaluated, or (ii) to increase the estimated contract cost under the Limitation of Cost clause in cost-reimbursable contracts.

(3) Modifications to real property leases (i) establishing occupancy dates, (ii) settling debits and credits under unit price allowances and ratios, (iii) for lease alterations not subject to clearance pursuant to APD 2800.1B if to be paid on a lump sum basis and not impacting operating cost or maintenance requirements, (iv) effecting tax or CPI operating cost escalations/deescalations, or (v) changing the percentage of Government occupancy.

(4) Routine modifications to schedule contracts and FSS stock or special order program contracts.

* * * * *

PART 502—DEFINITIONS OF WORDS AND TERMS

3. Section 502.101 is amended by revising the definitions for "Agency competition advocate" and "Contracting activity competition advocate" read as follows:

502.101 Definitions.

Agency competition advocate means the Director of the Office of the Contract Review.

* * * * *

Contracting activity competition advocate means the (a) Director of the Office of Contract Review, (b) FSS Competition Advocate, Office of Commodity Management, (c) IRMS Competition Advocate, Office of Information Resources Management Policy, (d) Special Assistant to the Director, Program Support Office, FPRS, and (e) Deputy Regional Administrator for Regions 2, 3, 4, 5, 6, 7, 9, and the National Capital Region. The Director of the Office of Contract Review serves as the contracting activity competition advocate for Central Office contracting advitivies outside of FSS, IRMS, and FPPS.

* * * * *

PART 504—ADMINISTRATIVE MATTERS

4. Section 504.470 is revised to read as follows:

504.470 Requests for release of classified information.

Prior to soliciting offers or entering into discussions or negotiations with any contractor involving the disclosure of classified information, the contracting officer shall prepare, in triplicate, section I of GSA Form 1720, Request for Release of Classified Information to U.S. Industry (illustrated in subpart 553.3). After signing as requesting officer and obtaining approval from the immediate supervisor, the contracting officer shall forward all copies of the completed form to the Personnel and Information Security Division (CES), Office of Management Controls and Evaluation.

5. Section 504.470–1 is revised to read as follows:

504.470–1 Authorization for release.

CES, after determining that the contractor has been issued a Department of Defense facility security clearance, will complete the appropriate parts of section II, of GSA Form 1720, and return the original and one copy to the contracting officer. Under no circumstances will classified information be disclosed or made accessible to any contractor until the completed form has been received from CES. Where only Item 14b, section II, of the form has been checked, the contracting officer's actions will be governed by the instructions on the reverse side of the form. When a contractor is found to be ineligible for a security clearance, CES will advise the contracting officer.

6. Section 504.470–2 is revised to read as follows:

504.470–2 Termination of authorization for release.

When circumstances support withdrawal or revocation of security clearance, CES will advise the contracting officer of the termination of authorization to release classified information and include instructions concerning actions required to safeguard, withhold, or obtain the return

of classified information. Reasons for such termination may include:

(a) Failure of the contractor to maintain the physical standards required by the ISM.

(b) Information indicating the contractor no longer: (1) Is eligible for clearance or (2) requires access to classified information.

7. Section 504.471 is amended by revising paragraph (b) to read as follows:

504.471 Processing security requirements checklist (DD Form 254).

* * * * *

(b) Instructions or guidance on completing DD Form 254 may be obtained from CES.

8. Section 504.476 is revised to read as follows:

504.476 Breaches of security.

When an unauthorized disclosure of classified information is discovered, the contracting officer or other GSA employee responsible for the information shall promptly refer the facts of such breach or compromise to CES.

PART 509—CONTRACTOR QUALIFICATIONS

9. Section 509.406–3 is amended by revising paragraph (b)(9) to read as follows:

509.406–3 Procedures.

* * * * *

(b) * * *

(9) The fact-finding official will notify the affected parties of the schedule for the hearing. The fact-finding official shall deliver written findings of fact to the debarring official (together with a transcription of the proceeding, if made) within 20 calendar days after the hearing record closes.

PART 513—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

10. Section 513.7001 is amended by revising paragraph (g) to read as follows:

513.7001 Certified invoice procedure for procurements not requiring a written purchase order.

* * * * *

(g) Upon receiving the invoice, the receiving office shall time-stamp the invoice to indicate the date the invoice is received, verify the arithmetic accuracy of the invoiced amount, and verify that the supplies and/or services have been received and accepted. The contracting officer or a designated representative shall obtain a certification of receipt and acceptance from the individual that actually inspected and accepted the supplies and/or services before certifying the invoice and forwarding to the appropriate Finance Division for payment. Supplies and/or services should be inspected and accepted or rejected within 7 calendar days of delivery/completion. The invoice must be forwarded to the appropriate Finance Division for payment within 5 workdays after receipt of the invoice or acceptance of the supplies and/or services, whichever is later. Before forwarding the invoice to Finance, the contracting officer shall stamp it with the Certified Invoice Stamp, complete the accounting information, type of business (corporation, sole proprietorship/partnership, or other), and certification, and affix the gummed ACT label. If a Certified Invoice Stamp is not available, place the following statement on the invoice along with the gummed ACT label, accounting information and the type of business.

Note: In some organizations, the gummed ACT label is affixed by a budget or executive office within the service or staff office.

I certify that these goods and/or services were received on Date _____ and accepted on Date _____. An oral purchase was authorized and no confirming order has been issued.

_____

Signature of Contracting/Ordering Officer

_____

Print name and telephone No.

_____

Second Certification (required by PBS)

_____

Print name and telephone No.

_____

Date Invoice received

PART 514—SEALED BIDDING

11. Section 514.203–1 is amended by revising paragraph (a) to read as follows:

514.203–1 Mailing or delivery to prospective bidders.

(a) Prospective bidders, as used in FAR 14.203–1, include the incumbent contractor (except when its written response to the contracting activity's notice of contract action under FAR subpart 5.2 states a negative interest) and should include bidders that responded to recent solicitations for the same or similar items. Names should be checked against the bidders' mailing list and added if not already listed.

* * * * *

12. Section 514.404–2 is amended by revising paragraph (a) to read as follows:

514.404–2 Rejection of individual bids.

(a) Individual bids rejected on the basis of responsiveness, responsibility, or eligibility and bids rejected because the bid after evaluation is no longer low shall be documented as provided in FAR 14.404–2(k) and noted in the "Remarks" block on GSA Form 1535, Recommendation for Award(s). Examples of bids which may no longer be low after evaluation include aggregate bids (see 514.271), "all or none" bids (see 552.214–73), and bids evaluated using Buy American differentials (see FAR 25.105 and 525.105–70).

* * * * *

PART 515—CONTRACTING BY NEGOTIATION

13. Section 515.408 is added to read as follows:

515.408 Issuing solicitations.

Potential sources, as used in FAR 15.403 and 15.408, include the incumbent contractor (except when its written response to the contracting activity's notice of contract action under FAR subpart 5.2 states a negative interest) and should include offerors that responded to recent solicitations for the same or similar items.

14. Section 515.411 is amended by revising paragraph (b) to read as follows:

515.411 Receipt of proposals and quotations.

* * * * *

(b) Classified proposals and quotations must be handled under FAR 15.411, GSAR subpart 504.4, and the requirements of GSA Order, Freedom of Information Act procedures (ADM 1035.11B).

15. Section 515.1001 is added to read as follows:

515.1001 Notification to unsuccessful offerors.

Preaward notices are not required for small business-small purchase set-asides. Notification to unsuccessful offerors can be made as provided in FAR 13.106(b)(9).

16. Section 515.1070 is amended by revising paragraph (a) to read as follows:

515.1070 Release of information concerning unsuccessful offerors.

(a) GSA Order, GSA Freedom of Information Act (FOIA) procedures

(ADM 1035.11B), should be consulted to determine what information may be disclosed.

* * * * *

PART 524—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

17. Section 524.202 is revised to read as follows:

524.202 Policy.

See 41 CFR part 105–60 and GSA Order, Freedom of Information Act procedures (ADM 1035.11B) for requirements on making records available under the Freedom of Information Act.

Dated: August 28, 1991.

Richard H. Hopf, III,

Associate Administrator for Acquisition Policy.

[FR Doc. 91–22120 Filed 9–16–91; 8:45 am]

BILLING CODE 6820–61–M

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48 CFR Parts 515, 519, 533, 547 and 552

[APD 2800.12A CHGE 28]

General Services Administration Acquisition Regulation; Implement FAC 90–3

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) is amended to delete section 515.407 because the provisions prescribed in this section have been added to the FAR; to revise section 519.304 to remove the paragraph (a) designation and to delete paragraph (b) since similar language has been added to the FAR; to revise section 533.103 to provide for the contracting director to make determinations required by FAR 33.103(a)(2) to award a contract prior to resolution of a protest to the agency; to delete section 547.303–6 because the FAR clause prescribed in this section has been revised to incorporate the GSA deviation; to delete section 552.215–73 since the new provision at FAR 52.215–38 is essentially the same; to delete section 552.215–74, appropriate coverage is in the new alternate to FAR 52.215–16; to amend section 552.219–1 by revising paragraph (c) to be consistent with the FAR provision; to delete section 552.219–70, the new provision at FAR 52.219–22 serves the same purpose; and to delete section 552.247–34 since the FAR provision has been revised to conform to the GSA deviation.

Copies may be obtained from the Director of the Office of GSA Acquisition Policy (VP), 18th and F Sts., NW., Washington, DC 20405. The intended effect is to improve the regulatory coverage and provide uniform procedures for contracting under the regulatory system.

EFFECTIVE DATE: September 16, 1991.

FOR FURTHER INFORMATION CONTACT: Ida M. Ustad, Office of GSA Acquisition Policy (202) 501–1224.

SUPPLEMENTARY INFORMATION:

A. Public Comments

This rule was not published in the Federal Register for public comment because it merely revises the GSAR to conform to the Federal Acquisition Regulation (FAR) as amended by FAC 90–3, which had already undergone the public comment process.

B. Executive Order 12291

The Director, Office of Management and Budget (OMB), by memorandum dated September 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because the rule was not required to be published in the Federal Register.

D. Paperwork Reduction Act

This rule does not contain information collection requirements that require the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

List of Subjects in 48 CFR Parts 515, 519, 533, 547 and 552

Government procurement.

Accordingly, 48 CFR parts 515, 519, 533, 547 and 552 are amended to read as follows:

1. The authority citation for 48 CFR parts 515, 519, 533, 547 and 552 read as follows:

Authority: 40 U.S.C. 486(c).

PART 515—CONTRACTING BY NEGOTIATION

515.407 [Removed]

2. Section 515.407 is removed.

PART 519—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

3. Section 519.304 is revised to read as follows:

519.304 Solicitation provisions.

The contracting officer shall insert the provision at 552.219–1, Small Business Concern Representation, in all solicitations instead of the provision at FAR 52.219–1.

PART 533—PROTESTS, DISPUTES, AND APPEALS

4. Section 533.103 is revised to read as follows:

533.103 Protests to the agency.

When a protest is filed only with the agency, the contracting officer is required to issue a written response to the protest. An agency protest is deemed to be filed with the agency when the complete protest is received at the location designated in the solicitation for service of protests. If the complete protest is actually received by the contracting officer at an earlier time, the protest shall be deemed to be filed when received by the contracting officer.

When a protest is filed only with the agency, an award may not be made until a decision on the protest is issued, unless the contracting director first makes the determination required by FAR 33.103(a)(2). The protestor must be notified in writing of the contracting officer's decision in a timely manner.

PART 547—TRANSPORTATION

547.303–6 [Removed]

5. Section 547.303–6 is removed.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

552.215–73 [Removed]

6. Section 552.215–73 is removed.

552.215–74 [Removed]

7. Section 552.215–74 is removed.

8. Section 552.219–1 is amended by revising the provision heading and paragraphs (b) and (c) to read as follows:

552.219–1 Small Business Concern Representation

* * * * *

Small Business Concern Representation (May 1991) (Deviation FAR 52.219–1)

* * * * *

(b) *Definition.* Small business concern, as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria and size standards in this solicitation.

(c) *Notice.* Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a small business concern in order to obtain a contract to be awarded under the preference programs established pursuant to sections 8(a), 8(d), 9, or 15 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility shall (1) Be punished by imposition of a fine, imprisonment, or both; (2) be subject to administrative remedies including suspension and debarment; and (3) be ineligible for participation in programs conducted under the authority of the Act.

552.219-70 [Removed]

9. Section 552.219-70 is removed.

552.247-34 [Removed]

10. Section 552.247-34 is removed.

Dated: August 28, 1991.

Richard H. Hopf, III,

Associate Administrator for Acquisition Policy.

[FR Doc. 91-22121 Filed 9-16-91; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF TRANSPORTATION

49 CFR Part 1

[OST Docket No. 1; Amdt. 1-246]

Organization and Delegation of Powers and Duties

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: This document delegates authority to the Federal Railroad Administrator to implement section 601 of the National and Community Service Act of 1990, as concerns the promulgation of regulations related to the discharge of human waste from railroad passenger cars.

EFFECTIVE DATE: September 17, 1991.

FOR FURTHER INFORMATION CONTACT: William R. Fashouer, Attorney-Advisor, Office of Chief Counsel, Federal Railroad Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-0616; or Steven B. Farbman, Office of the Assistant General Counsel for Regulation and Enforcement, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-9307.

SUPPLEMENTARY INFORMATION: Section 601(d) of the National and Community Service Act of 1990 November 16, 1990 (Pub. L. 101-610, 104 Stat. 3185 (45 U.S.C. 546 note)) (the "Act"), requires the Secretary, in consultation with the National Railroad Passenger Corporation, the Administrator of the Environmental Protection Agency, the Surgeon General, and state and local officials, to promulgate such regulations as may be necessary to mitigate the impact of the discharge of human waste from railroad passenger cars on areas that may be considered environmentally sensitive. Section 601(e) of the Act requires the Secretary to promulgate regulations directing the National Railroad Passenger Corporation to, where appropriate, publish printed information, and make public address announcements, explaining its existing disposal technology and its retrofit and new equipment program, and encouraging passengers using existing equipment not to dispose of wastes in stations, railroad yards, or while the train is moving through environmentally sensitive areas. This amount delegates the Secretary's authority to the Federal Railroad Administrator to issue these regulations.

Since this amendment relates to departmental management, notice and public comment are unnecessary. For the same reason, good cause exists for not publishing this rule at least thirty days before its effective date, as is ordinarily required by 5 U.S.C. 553(d). Therefore, the delegation of authority to the Federal Railroad Administrator to carry out the provisions of section 601 of the National and Community Service Act of 1990 is effective as of the date of publication of this Final Rule.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

In consideration of the foregoing, part 1 of title 49, Code of Federal Regulations, is amended as follows:

PART 1—[AMENDED]

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

Authority: 49 U.S.C. 322.

2. Section 1.49 is amended by adding a new paragraph (hh) to read as follows:

§ 1.49 Delegations to Federal Railroad Administrator.

* * * * *

(hh) Exercise the authority vested in the Secretary by Section 601 (d) and (e) of the National and Community Service Act of 1990 (45 U.S.C. 546 note) as it relates to the discharge of human waste from railroad passenger cars.

Issued on September 4, 1991.

Samuel K. Skinner,

Secretary of Transportation.

[FR Doc. 91-21939 Filed 9-16-91; 8:45 am]

BILLING CODE 4910-62-M

National Highway Traffic Safety Administration

49 CFR Parts 571, 572, 586, and 587

[Docket No. 88-06; Notice 13]

RIN 2127-AE05

Federal Motor Vehicle Safety Standards; Side Impact Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule; corrections.

SUMMARY: On October 30, 1990, NHTSA published in the **Federal Register** a final rule adding dynamic test procedures and performance requirements to Standard No. 214 (55 FR 45722). The dynamic test requirements of Standard No. 214 are phased in over a three-year period, beginning on September 1, 1993. At the same time, NHTSA also published final rules: (1) Establishing the specifications for the side impact dummy to be used in the dynamic crash test (55 FR 45757), (2) establishing the attributes of the moving deformable barrier (MDB) to be used in the dynamic crash test (55 FR 45770), and (3) establishing the reporting and recordkeeping requirements necessary for NHTSA to enforce the phase-in of the new dynamic test procedure (55 FR 45768). This rule corrects minor errors in the previous final rules and adds the Office of Management and Budget (OMB) approval number assigned under the Paperwork Reduction Act.

DATES: The amendments made by this rule to the text of the Code of Federal Regulations are effective September 17, 1991.

FOR FURTHER INFORMATION CONTACT: Dr. Joseph Kanianthra, Chief, Side and Rollover Crash Protection Division, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202-366-4924).

SUPPLEMENTARY INFORMATION:

I. Background

NHTSA's safety standard for side impact protection is Federal Motor Vehicle Safety Standard No. 214. On October 30, 1990, NHTSA published in the **Federal Register** a final rule adding dynamic test procedures and performance requirements to Standard

No. 214 (55 FR 45722). The dynamic test requirements of Standard No. 214 are phased in over a three-year period, beginning on September 1, 1993. At the same time, NHTSA also published final rules: (1) Establishing the specifications for the side impact dummy to be used in the dynamic crash test (55 FR 45757), (2) establishing the attributes of the moving deformable barrier to be used in the dynamic crash test (55 FR 45770), and (3) establishing the reporting and recordkeeping requirements necessary for NHTSA to enforce the phasing-in of the new dynamic test procedure (55 FR 45768). (In this notice, NHTSA refers to the four final rules collectively as "the final side impact rules" or "the final rules.") NHTSA received four petitions for reconsideration of these final rules from: (1) The Motor Vehicle Manufacturers Association (MVMA), (2) the Ford Motor Company (Ford), (3) the Association of International Automobile Manufacturers (AIAM), and (4) the International Standards Organization (ISO). NHTSA will respond to those petitions through a notice that will be published in the Federal Register later this year.

II. Summary of the Corrections

NHTSA has discovered a few mistakes in the final rules that require correction. NHTSA is making those corrections through this notice.

The corrections are not substantive. One changes the name of Standard No. 214 from *Side Door Strength* to *Side Impact Protection* to reflect the recently adopted dynamic test procedure. Another changes the numbering of the Figures in Standard No. 214 and makes minor corrections in the Figure for the MDB (now Figure 2). Another makes minor changes in the wording of 49 CFR 572.44(c) to improve clarity and make that section consistent with the drawings of the side impact test dummy (SID) that are incorporated by reference in the final rules. Another corrects a mistake to make clear that the records required by 49 CFR 586.6 must be maintained until December 31, 1998, as stated in preamble of the final reporting rule. The regulatory text included with the final reporting rule mistakenly stated that the records must be maintained until December 31, 1997. Another corrects the shoe size of the side impact dummy used in the compliance test for Standard No. 214. The final rule listed the shoe size as 11EE. The correct shoe size is 11EEE. Another correction provide further clarification by listing the track width of the MDB in the crabbed configuration.

The rule that established reporting and recordkeeping requirements necessary for NHTSA to enforce the phase-in contained information collection requirements, as that term is defined by OMB in 5 CFR part 1320. NHTSA requested the approval of OMB for those information collection requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq*). OMB has approved the information collection requirements and assigned the Information Collection Requirement Number 2127–0558. NHTSA is amending the final rule to show the Information Collection Requirement Number in the regulatory text.

As stated above, these amendments are effective upon publication of this notice. These amendments are merely technical corrections of the final rules that were published on October 30, 1990. They impose no new substantive requirements. Therefore, NHTSA finds for good cause that notice and opportunity for comment on these amendments are unnecessary. Because of the non-substantive nature of the amendments, NHTSA also finds for good cause that making the rule effective upon publication is in the public interest.

49 CFR Part 571

Imports, Incorporation by reference, Motor vehicle safety, Motor vehicles.

List of Subjects

49 CFR Part 572

Incorporation by reference, Motor vehicle safety.

49 CFR Part 586

Reporting and recordkeeping requirements.

49 CFR Part 587

Incorporation by reference, Motor vehicle safety.

The following corrections are made in FR Documents 90–25391, 90–25392, 90–25393, and 90–25394, appearing on pages 45722 through 45780 in the issue of October 30, 1990:

PART 571—[AMENDED]

1. The authority citation for part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.214 [Amended]

2. On page 45752, first column, the heading is corrected to read as follows: "§ 571.214 Side impact protection".

3. On page 45753, first column, the first sentence of S6.10 is corrected to read: "The moving deformable barrier conforms to the dimensions shown in Figure 2 and specified in part 587."

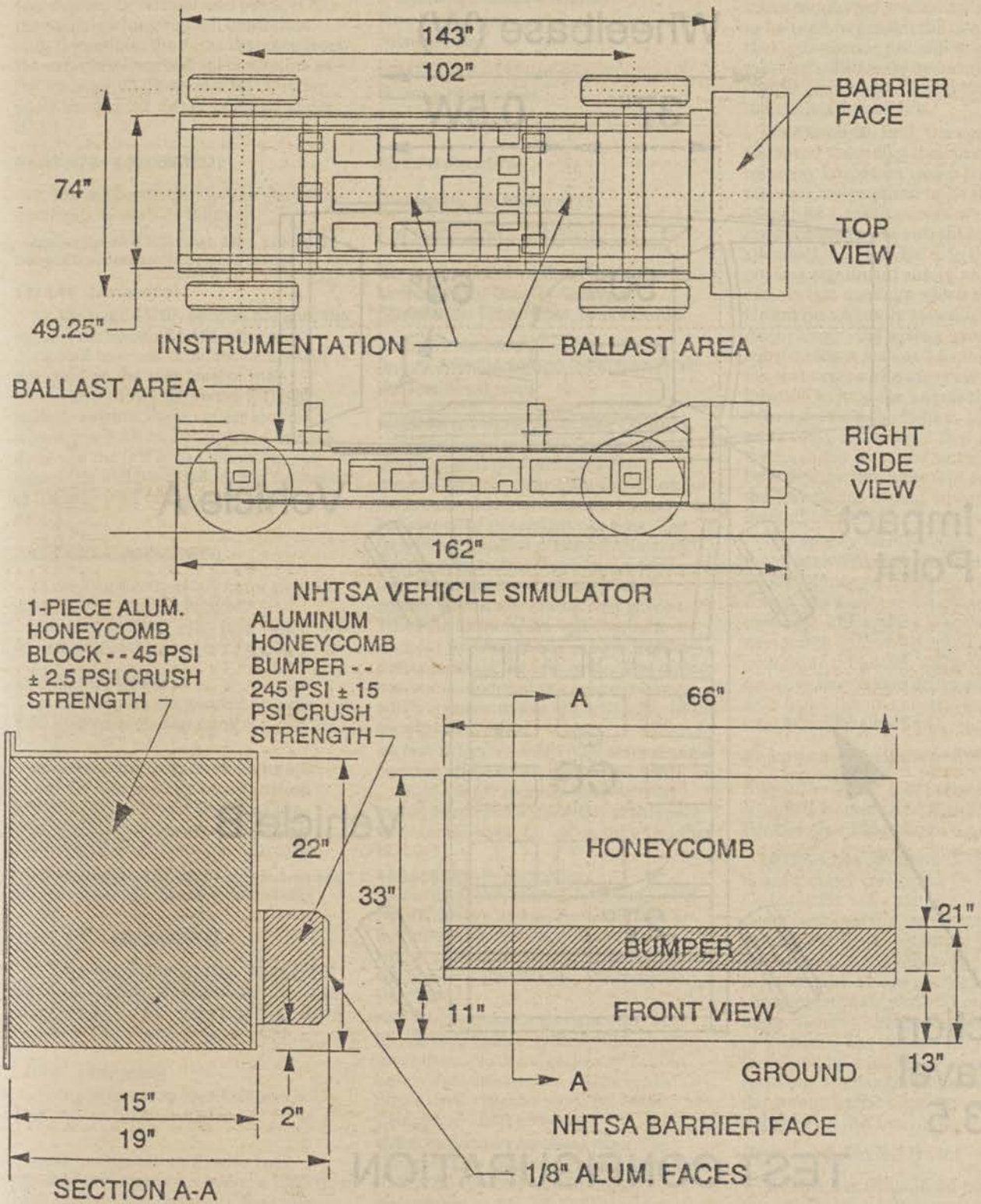
4. On page 45753, first and second columns, the first two sentences of S6.12 are corrected to read: "The test vehicle (vehicle A in Figure 3) is stationary. The line of forward motion of the moving deformable barrier (vehicle B in Figure 3) forms an angle of 63 degrees with the centerline of the test vehicle."

5. On page 45753, third column, the second sentence of S6.13.2 is corrected to read: "Each foot of the test dummy is equipped with a size 11EEE shoe, which meets the configuration size, sole, and heel thickness specifications of MIL–S–13192 (1976) and weighs 1.25±0.2 pounds."

BILLING CODE 4910-59-M

6. On page 45754, a corrected Figure 2 is substituted for the old Figure 1.

6a



NHTSA SIDE IMPACTOR - MOVING DEFORMABLE BARRIER
FIGURE 2

BILLING CODE 4910-59-C

7. On page 45755, a corrected Figure 3 is substituted for the old Figure 2. 7a

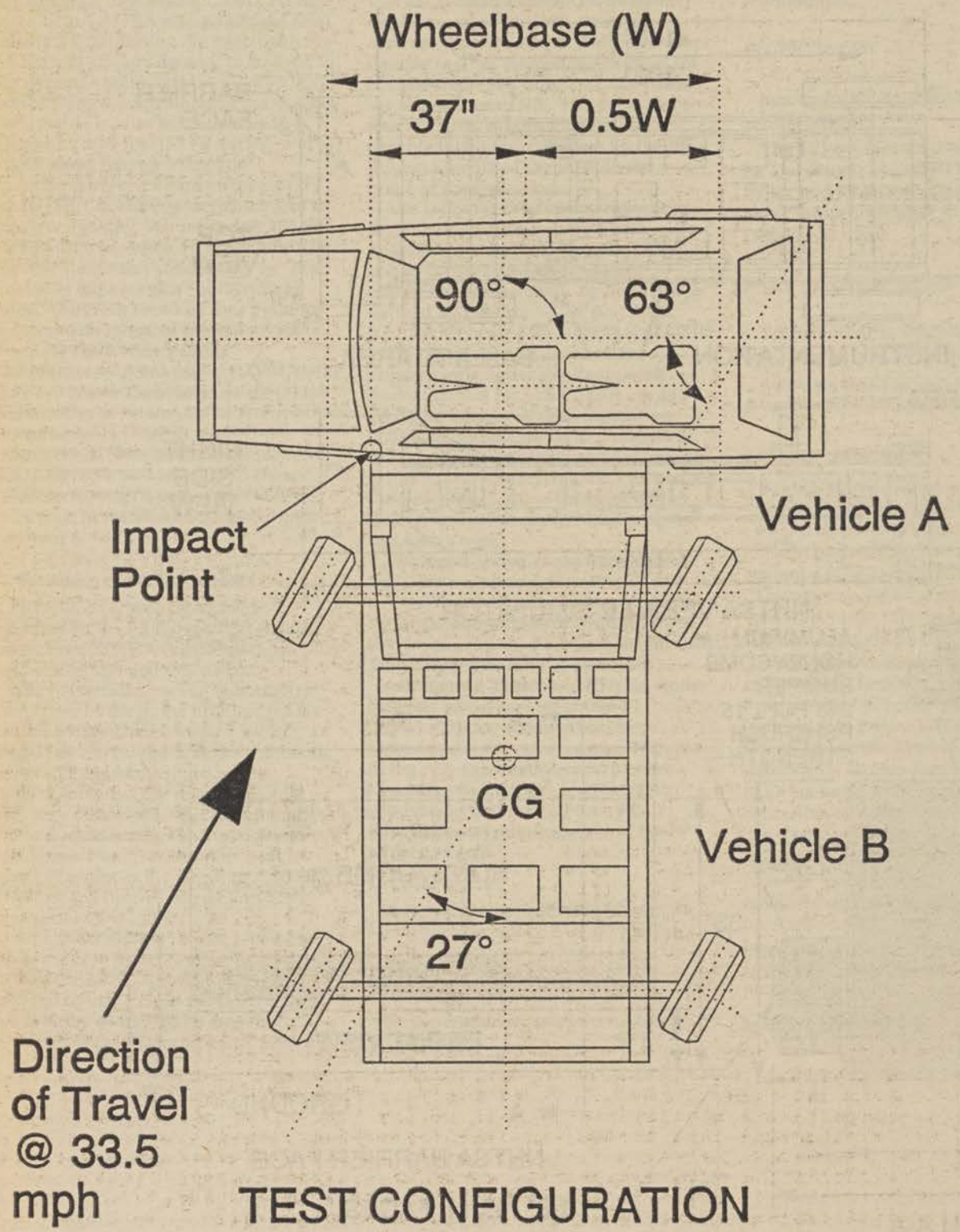


Figure 3

BILLING CODE 4910-59-C

8. On page 45756, first column, the second sentence of S7.1.3(a) is corrected to read: "The midsagittal plane of the test dummy is vertical and parallel to the vehicle's longitudinal centerline, and, if possible, the same distance from the vehicle's longitudinal centerline as the midsagittal plane of a test dummy positioned in the driver position under S7.1.1."

PART 572—[AMENDED]

9. The authority citation for part 572 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 572.44 [Amended]

10. On page 45767, second column, the second sentence of § 572.44(c) is corrected to read: "The accelerometer is mounted on the rear wall of the instrument cavity (Drawing SID–087), with its seismic mass center located from a point 0.9 inches upward and 0.5 inches to the left of the mounting bolt centerline and 0.4 to 0.5 inches rearward of the rear wall of the instrument cavity."

PART 586—[AMENDED]

11. The authority citation for part 586 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1407; delegation of authority at 49 CFR 1.50.

§ 586.6 [Amended]

12. On Page 45770, second column, § 586.6 is corrected to read:

* * * * *

Each manufacturer shall maintain records of the Vehicle Identification Number for each passenger car for which information is reported under § 586.5(b)(2) until December 31, 1998.

(Approved by the Office of Management and Budget under control number 2127–0558)

PART 587—[AMENDED]

11. The authority citation for part 587 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 587.6 [Amended]

12. On page 45779, third column, § 587.6(c) is corrected to read:

* * * * *

(c) In configuration 2 (with two cameras and camera mounts, a light trap vane, and ballast reduced), the moving deformable barrier, including the impact surface, supporting structure, and carriage, weighs 3,015 pounds, has a track width of 74 inches in the crabbed configuration when the wheels are straight, and has a wheelbase of 102 inches.

Issued on September 11, 1991.

Jerry Ralph Curry,

Administrator.

[FR Doc. 91–22272 Filed 9–16–91; 8:45 am]

BILLING CODE 4910–59–M

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49 CFR Part 575

[Docket No. 25; Notice 67]

RIN 2127–AE–01

Consumer Information Regulations; Uniform Tire Quality Grading Standards: Treadwear Test Course

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: The Uniform Tire Quality Grading Standards (UTQGS) contain detailed testing procedures for generating consumer information about the treadwear, traction, and temperature resistance of passenger car tires. The treadwear grading procedures specify the specific test course along which treadwear convoys must travel to ensure uniformity among test grades. This rule amends the test course to account for potentially unsafe traffic patterns along the test route. The agency has concluded that the course change will not compromise the reliability of the treadwear grades.

DATES: *Effective Date:* The amendments become effective December 16, 1991.

Petitions for reconsideration. Any petition for reconsideration of this rule must be received by the agency October 17, 1991.

ADDRESSES: Petitions for reconsideration should refer to Docket No. 25; Notice 67 and be submitted to the following: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Nelson Gordy, Office of Market Incentives, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–4797.

SUPPLEMENTARY INFORMATION: The Uniform Tire Quality Grading Standards (UTQGS) set forth conditions and procedures in 49 CFR 574.104(e) for convoys used to generate treadwear data. Those data are in turn used to determine treadwear grades. The treadwear grades inform consumers about the amount of expected tread life for each tire offered for sale. This allows the tire purchaser to compare passenger car tires based on tread life. Although these treadwear grades are not intended to be used to predict the actual mileage that a particular tire will achieve, they must be sufficiently accurate to help consumers choose among tires based on their related tread life.

On March 26, 1991, the agency proposed amending the specified roadway course on which treadwear convoys are required to be run. (56 FR 12503) As a result of recent road improvements, the current course, as specified in appendix A to the UTQGS, poses a significant safety problem to certain test convoys which must make a U-turn on a heavily travelled road. Accordingly, the agency proposed substituting a similar 3.6 mile portion to the test course at a more convenient location to help the adversely affected convoys avoid the U-turn. The agency tentatively determined that differences, if any, in the wear characteristics between the two alternate portions of the test course should have an insignificant effect on treadwear grades.

The agency received one comment to the proposal from Smithers Laboratory which supported the proposal. No comments were received opposing the proposal. The agency therefore has decided to amend the treadwear test course, as proposed. Accordingly, test convoys may travel on an alternative 3.6 mile leg of the test course to avoid the unsafe traffic situation.

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has determined that this rule is not a major rule under Executive Order 12291 nor a significant rule within the meaning of the Department of Transportation's regulatory policies and procedures. A full regulatory evaluation is not required because the rule will not change test costs and will only insignificantly change the test procedures. The economic impacts will, therefore, be minimal. The amendment responds to changing a potentially dangerous traffic condition recently imposed on test convoys.

Regulatory Flexibility Act

NHTSA has considered the effects of this rulemaking action under the Regulatory Flexibility Act. Based upon the agency's evaluation, I certify that this rule will not have a significant economic impact on a substantial number of small entities. Tire

manufacturers typically will not qualify as small entities. While some UTQGS testing organizations may be small entities, the amendment will not have a significant economic impact on them since test costs will not be affected. Small organizations and governmental jurisdictions which purchase tires will not be affected since the amendment will not affect the cost or treadwear grading of tires.

Executive Order 12612 (Federalism)

This rulemaking action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. It has been determined that it will have no Federalism implications that warrant preparation of a Federalism report.

National Environmental Policy Act

As it is required to do under the National Environmental Policy Act of 1969, NHTSA has considered the environmental impact of this rulemaking and determined that it will not have any significant impact on the quality of the human environment.

List of Subjects in 49 CFR Part 575

Consumer protection, Labeling, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 575—CONSUMER INFORMATION REGULATIONS

In consideration of the foregoing, 49 CFR 575.104, Uniform Tire Quality Grading Standards is amended as follows:

1. The authority citation for part 575 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1407, 1421, 1423; delegation of authority at 49 CFR 1.50.

§ 575.104 [Amended]

2. In § 575.104, the portions of appendix A addressing the Eastern Loop and Northwestern Loop are revised to read as follows:

* * * * *

Eastern Loop. From junction of Loop Road 306 and FM388 (2), make right turn onto FM388 and drive east to junction with FM2334 (13). Turn right onto FM2334 and proceed south across FM765 (14) to junction of FM2334 and US87 (15). For convoys that originate at Goodfellow AFB, make U-turn and return to junction of FM388 and Loop Road 306 (2) by the same route. For convoys that do not originate at Goodfellow AFB, upon reaching junction of FM2334 and US87 (15), make U-Turn and continue north on FM2334 past the intersection with FM388 to Veribest Cotton Gin, a distance of 1.8 miles beyond the intersection. Make U-turn and return to junction of FM2334 and FM388. Turn right onto FM388, proceed west to junction FM388 and Loop Road 306.

Northwestern Loop. From junction of Loop Road 306 and FM388 (2), make right turn onto Loop Road 306. Proceed onto US277, to junction with FM2105 (8). Turn left onto FM2105 and proceed west to junction with US87 (10). Turn right on US87 and proceed northwest to the junction with FM2034 near the town of Water Valley (11). Turn right onto FM2034 and proceed north to Texas 208 (12). Turn right onto Texas 208 and proceed south to junction with FM2105 (9). Turn left onto FM2105 and proceed east to junction with US277 (8). Turn right onto US277 and proceed south onto Loop Road 306 to junction with FM388 (2). For convoys that originate at Goodfellow AFB, turn right onto FM388 and proceed to starting point at junction of Ft. McKavitt Road and FM388 (1). For convoys that do not originate at Goodfellow AFB, do not turn right onto FM388 but continue south on Loop Road 306.

* * * * *

3. In § 575.104, the Chart "KEY POINTS ALONG TREADWEAR TEST COURSE, APPROXIMATE MILEAGES, AND REMARKS" is revised to read as follows:

BILLING CODE 4910-59-M

KEY POINTS ALONG TREADWEAR TEST COURSE, APPROX. MILEAGES, AND REMARKS

		Mileages	*Remarks*
1	Ft. McKavitt Road & FM 388	0	
2	FM388 & Loop 306 *	2	STOP
3	Loop 306 & US277 . .	10	
4	Sonora	72	
5	US 277 & FM 189 . . .	88	
6	FM 189 & Texas 163 .	124	
7	Historical Marker . . . (Camp Hudson)	143	U-TURN
4	Sonora	214	
3	Loop 306 & US 277 . .	276	
2	FM 388 & Loop 306 .	283	
13	FM 388 & FM 2334 †	290	STOP
14	FM 2334 & FM 765 . .	292	STOP
15	FM 2334 & US 87 . . .	295	U-TURN
14	FM 2334 & FM 765 . .	298	STOP
13	FM 388 & FM 2334 . .	300	STOP/YIELD/ BLINKING RED LIGHT
2	FM 388 & Loop 306 .	307	STOP/YIELD/ BLINKING RED LIGHT
8	US 277 & FM 2105 . .	313	
9	FM 2105 & Texas 208	317	STOP
10	FM 2105 & US 87 . . .	320	STOP
11	FM 2034 & US 87 . . .	338	
12	FM 2034 & Texas 208	362	YIELD
9	FM 2105 & Texas 208	387	
8	FM 2105 & US 277 . .	391	YIELD/STOP
2	FM 388 & Loop 306 *	398	
1	Ft. McKavitt Road & FM 388	400	
16	Veribest Cotton Gin .	1.8	U-TURN

* Convoys not originating at Goodfellow AFB will not traverse the leg of course.

† Convoys not originating at Goodfellow AFB will proceed to 16, Veribest Cotton Gin, Make U-Turn and return to 13.

FIGURE 2

BILLING CODE 4910-59-C

4. In § 575.104, Figure 3 is revised to read as follows:

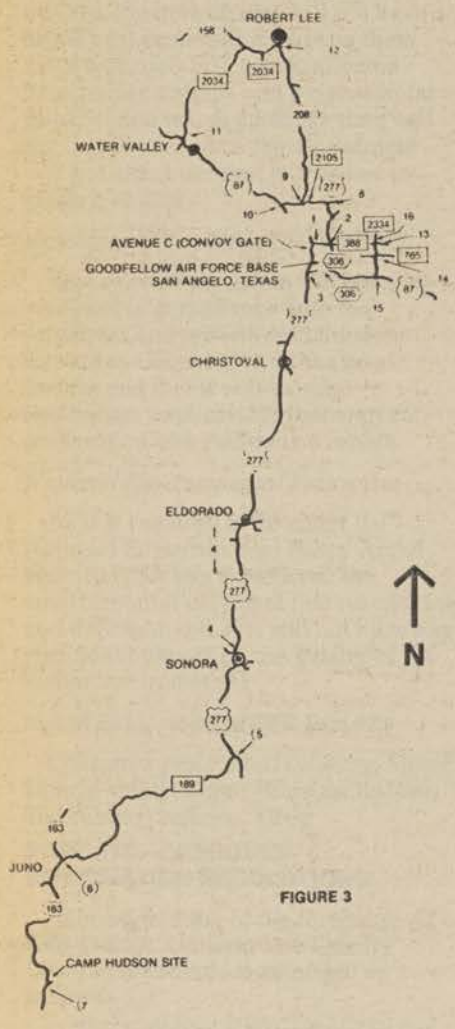

FIGURE 3

Issued on: September 11, 1991.

Jerry Ralph Curry,

Administrator.

[FR Doc. 91-22229 Filed 9-16-91; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 910498-1098]

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

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

ACTION: Notice of closure.

SUMMARY: NOAA announces the closure of the commercial salmon fishery for all salmon species in the exclusive economic zone (EEZ) from Horse Mountain, California, to the U.S.-Mexico border at midnight, August 27, 1991, to ensure that the coho salmon quota is not exceeded. The Director, Northwest Region, NMFS (Regional Director), determined that the separate catch quota of 5,000 coho salmon reserved preseason for the commercial fishery in this subarea would be reached and the fishery for all salmon species should be closed at midnight, August 27, 1991. The regularly scheduled commercial fishery in this subarea reopened for all salmon species except coho salmon at 0001 hours local time, August 28, 1991. This action is necessary to conform to the preseason notice of 1991 management measures and is intended to ensure conservation of coho salmon.

DATES: *Effective:* Closure of the EEZ from Horse Mountain, California, to the U.S.-Mexico border to commercial fishing for all salmon species was effective at 2400 hours local time, August 27, 1991. The regularly scheduled commercial fishery in this subarea reopened for all salmon species except coho salmon effective at 0001 hours local time, August 28, 1991. Actual notice to affected fishermen was given prior Mariners broadcasts as provided by 50 CFR 661.20, 661.21, and 661.23.

Comments: Public comments are invited until September 27, 1991.

ADDRESSES: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115-0070; or E. Charles Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 S. Ferry Street, Terminal Island, CA 90731-7415. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the office of the NMFS Northwest Regional Director.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206-526-6140, or Rodney R. McInnis at 213-514-6199.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries at 50 CFR part 661 specify at § 661.21(a)(1) that "When a quota for the commercial or the recreational fishery, or both, for any salmon species in any portion of the fishery management area is projected by the Regional Director to be reached on or by a certain date, the Secretary will, by notice issued under § 661.23, close the commercial or recreational fishery, or both, for all salmon species in the portion of the fishery management area to which the quota applies as of the date the quota is projected to be reached."

In its emergency interim rule and preseason notice of 1991 management measures (56 FR 21311, May 8, 1991), NOAA announced that the commercial salmon fishery for all salmon species in the EEZ from Horse Mountain, California, to the U.S.-Mexico border would open on August 1 and continue through the earliest of September 30 or the attainment of the coho salmon quota. Upon attainment of the coho salmon quota, the fishery would reopen in this subarea for all salmon species except coho salmon and continue through September 30.

The commercial fishery in this subarea opened for all salmon species from August 1 through August 2 based on the projection that the subarea catch quota of 5,000 coho salmon would be caught within 2 days (56 FR 40268, August 14, 1991), then reopened for all salmon species except coho salmon from August 3 through August 11. Beginning August 12, the commercial fishery reopened for all salmon species when it was determined that the August 2 closure was based on an overestimate of the actual catch of coho salmon.

According to the best available information on August 26, 1991, the commercial fishery catch was projected to reach the 5,000 coho salmon quota by midnight, August 27, 1991. Therefore, the commercial fishery in the subarea from Horse Mountain, California, to the U.S.-Mexico border was closed for all salmon species effective 2400 hours local time, August 27, 1991. In accordance with the preseason notice of 1991 management measures, the regularly scheduled fishery in this subarea reopened for all salmon species except coho salmon effective 0001 hours local time, August 28, 1991.

In accordance with the inseason notice procedures of 50 CFR 661.23, actual notice to fishermen of this action was given prior to the times listed above by telephone hotline number (206) 526-6667 and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz.

The Regional Director consulted with representatives of the Pacific Fishery Management Council and the California Department of Fish and Game regarding this action affecting the commercial fishery from Horse Mountain, California, to the U.S.-Mexico border. The State of California will manage the commercial fishery in State waters adjacent to this area of the EEZ in accordance with this

Federal action. This notice does not apply to other fisheries that may be operating in other areas.

Because of the need for immediate action, the Secretary of Commerce has determined that good cause exists for this notice to be issued without affording a prior opportunity for public comment. Therefore, public comments on this notice will be accepted until September 27, 1991.

Other Matters

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

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians, Reporting and recordkeeping requirements.

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

Dated: September 12, 1991.

David S. Crestin,

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

[FR Doc. 91-22304 Filed 9-12-91; 3:12 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 56, No. 180
Tuesday, September 17, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 51

RIN 3150-AD 94

Environmental Review for Renewal of Operating Licenses

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to establish new requirements for environmental review of applications to renew operating licenses for nuclear power plants. The proposed amendments would define the number and scope of environmental impacts that would need to be addressed as part of a license renewal application. Concurrent with the proposed amendments, the NRC is publishing for comment (1) a draft generic environmental impact statement, (2) a draft regulatory guide, (3) a draft environmental standard review plan, and (4) a draft regulatory analysis, which supplement the proposed amendments. A workshop on the proposed amendments and the draft generic environmental impact statement will be held during the comment period.

DATES: Comment period expires December 16, 1991. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only of comments received on or before this date. Notification of intent to attend the workshop, concurrent session preferences, and desire to participate as a panelist during a specific session should be received by the staff no later than October 4, 1991. Comments on the proposed agenda received by the staff by October 4, 1991, will be considered in developing the final workshop agenda. A final agenda and detailed information on each session will be available after October 18, 1991. This information will be mailed to all individuals and organizations who notify the NRC of their intent to attend and to others who request it. The workshop will be held on November 4 and 5, 1991.

ADDRESSES: Send comments to: The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or hand deliver comments to the Office of the Secretary, One White Flint North, 11555 Rockville Pike, Rockville, Maryland between 7:30 a.m. and 4:15 p.m. on Federal workdays. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW., (Lower Level), Washington, DC between the hours of 7:45 a.m. and 4:15 p.m. on Federal workdays. The workshop will be held at the Rosslyn Westpark Hotel, 1900 North Fort Myer Drive, Arlington, Virginia 22209. Send notification of intent to attend and desire to participate as a panelist during a specific session to Donald Cleary, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Donald Cleary, Division of Safety Issues Resolution, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-3936.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Commission is proposing to amend 10 CFR part 51 to improve the efficiency of the process of environmental review when an applicant seeks to renew an operating license for up to an additional 20 years. To prepare for possible license renewal applications, the Commission considered the merits of relying on the existing framework for environmental review in part 51 rather than revising part 51. In reaching its decision to revise part 51, the Commission considered the following factors: (1) License renewal will involve nuclear power plants for which the environmental impacts of operation are well understood as a result of data evaluated from operating experience to date; (2) activities and requirements associated with license renewal are anticipated to be within this range of operating experience, thus environmental impacts can reasonably be predicted; and (3) changes in the environment around nuclear power plants are generally gradual and predictable with respect to characteristics important to environmental impact analyses.

The Commission has conducted a study of the potential environmental impacts of license renewal. The objective of the study was to (1) identify all the potential impacts to the environmental and other National Environmental Policy Act (NEPA) issues associated with plant license renewal, (2) determine which of these environmental impacts and other NEPA issues could be evaluated generically for all plants, and (3) determine the significance of these issues that could be generically evaluated. The analyses and results of this study are presented in the draft Generic Environmental Impact Statement (GEIS) (NUREG-1437), which is being published for comment concurrently with this proposed rule. The staff concludes in the GEIS that only a limited number of the total potential impacts cannot be evaluated generically. Those impacts that cannot be evaluated generically will have to be evaluated for each plant before its license is renewed. However, the environmental impacts that can be generically evaluated will not have to be evaluated for each plant.

The GEIS provides the basis for this rulemaking. To develop the GEIS, the NRC staff followed the recommended procedures of the Council on Environmental Quality (CEQ), including scoping activities such as consulting the CEQ and other Federal agencies, a

public workshop held on November 12–14, 1989 (54 FR 41980; October 13, 1989), and publication of a Notice of Intent to prepare the GEIS (55 FR 29967; July 23, 1990).

The proposed rule addresses the potential environmental impacts that are generically evaluated for all plants in the GEIS and codifies the findings in the GEIS. In addition, those potential impacts that are not generically evaluated in the GEIS are identified in the proposed rule to be evaluated on a plant-specific basis. By assessing and codifying certain potential environmental impacts on a generic basis, no need exists to address these impacts for each future license renewal. The proposed amendments should result in considerable savings to the NRC, the nuclear utility industry, and the nuclear utility ratepayers, while ensuring that the environmental impacts of license renewal are evaluated, as required by the NEPA.

The basic information and the supporting analysis of environmental impacts that serve as the basis of this proposed rulemaking are presented in the draft GEIS, NUREG–1437. The draft GEIS and these proposed amendments to 10 CFR part 51 also provide the basis for developing a license renewal draft supplement to Regulatory Guide 4.2, "Preparation of Environmental Reports for Nuclear Power Stations," which provides guidance on the format and content of the environmental report to be submitted as part of the license renewal application. Additionally, the staff also prepared a draft Environmental Standard Review Plan (NUREG–1429) to provide guidance to the staff on the scope of the review necessary to implement the proposed amendments to part 51.

II. Background

A. License Renewal—10 CFR Part 54

A significant number of the operating licenses for the existing nuclear power plants are due to expire in the early part of the 21st century. The NRC anticipates that a number of licensees will submit applications to renew an operating license 10 to 20 years before the license expires. The first of these applications is expected in the near future. The NRC has issued a proposed rule, 10 CFR Part 54, "Requirements for Renewal of Operating Licenses for Nuclear Power Plants" (55 FR 29043; July 17, 1990), that would establish the requirements that an applicant must meet, the information that must be submitted to the NRC for review so that the agency can determine whether these requirements have in fact been met, and the application procedures. The proposed part 54 permits the renewal of an operating license for up to an additional 20-year increment beyond the expiration of its current license (initial licensee authorize 40 years of operation). The part 54 rule could be applied to multiple renewals of an operating license for various increments. However, the part 51 amendments apply to one renewal of the initial license for up to 20 years beyond the expiration of the initial license.

License renewal for each plant will be based on the current licensing basis (i.e., the original licensing basis for the plant as amended during the initial license term) and changes, as necessary, to address the effects of age-related degradation on systems, structures, and components important to license renewal. To comply with 10 CFR part 54, the licensee shall assess and determine those activities and modifications that are necessary, at the time of license renewal and throughout the renewal term, to ensure continued safe operation of the plant. Each licensee shall identify and incorporate those activities necessary for managing aging into its licensing basis, thereby ensuring that acceptable margins of safety are preserved throughout the license renewal term. In addition, each applicant for a license renewal shall submit an environmenal report that complies with the requirements of 10 CFR part 51, the NRC regulations governing environmental protection for domestic licensing.

B. Environmental Review

The scope of the NRC's National Environmental Policy Act (NEPA) review is found in 10 CFR part 51. To meet the provisions of 10 CFR 51.45, the applicant shall submit an environmental report (ER) that discusses (1) the impact of the proposed action on the environment, (2) any adverse environmental impacts that cannot be avoided, (3) alternatives to the proposed action, (4) the relationship between local short-term uses of the environment and maintenance and enhancement of long-term productivity, and (5) any irreversible or irretrievable commitments of resources. In addition, the licensee shall submit an analysis that considers and balances the environmental effects of the proposed action and the alternatives available for reducing or avoiding adverse environmental effects, as well as the benefits of the action. The NRC will independently review this material and publish the results.

Before issuing a construction permit (CP) or an operating license (OL) for a nuclear power plant, the NRC is required to assess the potential environmental impacts of the plant to ensure that the issuance of a permit or license is consistent with the NEPA and the NRC implementing regulations of the NEPA in 10 CFR part 51. For those plants licensed subsequent to the enactment of the NEPA, baseline quantitative studies and monitoring programs were often developed for comparison with data gathered from later programs if adverse effects of construction or operation were reasonably inferred from information obtained during the gathering of preconstruction or operational baseline phases. These studies were part of the applicant's environmental report and were reviewed in the staff's final environmental statement (FES) for the specific plant. These studies and programs were restricted to the impact assessment of important resources and important species described in the staff's guidance documents such as Regulatory Guide 4.2, and Environmental Standard Review Plans (NUREG–0555). The staff's final assessments of these programs were normally summarized in each plant-specific FES. On the basis of these reviews, appropriate environmental parameters would have been proposed for monitoring or for special studies.

Although two operating nuclear power plants were licensed before the NEPA was enacted and do not have FESs, the GEIS did consider and envelop these plants. Accordingly, the Commission believes that no reason exists to treat these two plants differently in the environmental review for each plant's license renewal.

Additionally, nonradiological discharges of pollutants to receiving waters from operating nuclear power plants that are licensed by the NRC are subject to limitations or monitoring under the Federal Water Pollution Control Act (FWPCA), administered by the U.S. Environmental Protection Agency (EPA) or designated State agencies. The resultant reporting requirements of a National Pollutant Discharge Elimination System (NPDES) permit are relied upon by the EPA and designated State agencies to provide data on potential problems. Permits are subject to review and approval every 5 years and may be modified by the permitting authority on the basis of an analysis of data generated from plant-specific NPDES monitoring programs.

The Commission considers that one of its responsibilities under the NEPA is to be cognizant of significant environmental impacts during the term of a plant's operations. For impacts

involving degradation of the aquatic environment, the reporting requirements of an NPDES permit authorized by the FWPCA are generally relied upon to alert the NRC to potential problems. In addition, the Commission includes conditions in its licenses to protect the environment in accordance with 10 CFR 50.36(b). These conditions identify appropriate requirements for reporting and recording environmental data and for monitoring requirements to protect the nonaquatic environment under 10 CFR part 50, a license may also reference environmental protection plans, environmental technical specifications, and radiological technical specifications. Therefore, the environmental effect of current operating reactors is well known and the probable future effect if licenses are renewed can be predicted with some confidence. This practice is consistent with regulations promulgated by the CEQ that direct agencies to adopt monitoring and enforcement programs, where appropriate. As a result of the staff's environmental reviews, certain environmental conditions, including monitoring requirements, may be included in NRC licenses. Licensees submit the information from monitoring of these conditions to the NRC on a routine basis, and the Commission responds as appropriate.

C. Use of Generic Rulemaking

The Commission has previously endorsed the generic rulemaking process and recognized the advantages of generic rulemaking. In an interim policy statement on generic rulemaking to improve nuclear power plant licensing, these advantages were identified:

(a) enhance stability and predictability of the licensing process by providing regulatory criteria and requirements in discrete generic areas on matters which are significant in the review and approval of license applications; (b) enhance public understanding and confidence in the integrity of the licensing process by bringing out for public participation important generic issues which are of concern to the agency and the public; (c) enhance administrative efficiency in licensing by removing, in whole or in part, generic issues from staff review and adjudicatory resolution in individual licensing proceedings and/or by establishing the importance (or lack of importance) of various safety and environmental issues to the decision process; (d) assist the Commission in resolving complex methodology and policy issues involved in recurring issues in the review and approval of individual licensing applications; and (e) yield an overall savings in the utilization of resources in the licensing process by the utility industry, those of the public whose interest may be affected by the rulemaking, the NRC and other Federal, State, and local governments with an expected improvement in the quality of the decision process.[1]

The NRC has used this generic approach in several part 51 rulemakings. Table S–4 of § 51.52 that gives the environmental impacts of the transportation of radioactive waste and nuclear fuel is an example. Applicants meeting certain criteria can use the information in Table S–4 as the basis for their evaluation of the environmental impacts of the transportation of radioactive waste and spent fuel. They are not required to conduct their own analysis of these impacts. Other examples of past generic part 51 rulemakings are Table S–3 of § 51.51 that gives the environmental impacts of the nuclear fuel cycle and § 51.53 and § 51.95, that eliminate the requirement to consider need for power and alternative energy sources for nuclear reactors at the operating license stage (47 FR 12940, March 26, 1982). Therefore, this rule is consistent with the NRC policy.

III. Proposed Action

A. Proposed Amendments

The proposed amendments to 10 CFR part 51 would establish new requirements for environmental review of an application to renew a license for a single plant. These amendments would require the applicant to address only those environmental issues that require a plant-specific assessment as part of an application for each plant. Applicants for all plants will have to assess environmental impacts on threatened and endangered species and impacts on local transportation during periods of refurbishment activities related to license renewal. These refurbishment activities are those activities that are planned for and performed on a nuclear power plant to prepare the plant for operation during the period the license is being renewed. These activities include equipment replacements, overhauls, maintenance, inspection, and testing. For other issues, all applicants either will have to demonstrate that their plants fall within defined bounds of plants for which a generic conclusion about an issue can be reached, or, if an issue does not fall within these bounds, assess that issue. Also, as part of its ER, an applicant will have to include an analysis of whether or not the findings of the assessment of each issue overturns the favorable cost-benefit balance for license renewal found in proposed appendix B to 10 CFR part 51.

[1] Generic Rulemaking To Improve Nuclear Power Plant Licensing, Interim Policy Statement, 43 FR 58377; December 14, 1978.

The proposed amendments codify the conclusions of the GEIS for those issues for which a generic conclusion can be reached. The proposed appendix B, which summarizes the Commission's findings on the scope and magnitude of environmental and other effects of renewing the operating license of each nuclear power plant, is added to 10 CFR part 51. In the proposed appendix, the Commission also states its finding that the "renewal of any operating license for up to 20 years will have accrued benefits that outweigh the economic, environmental, and social costs of license renewal * * *."

In addition, the proposed amendments eliminate the requirement that the NRC staff must prepare a supplemental environmental impact statement (EIS) for every license renewal application; instead, the amendments permit the staff to prepare an environmental assessment (EA) if certain conditions are met. The basis for this proposed change is the GEIS finding that only a limited number of potential impacts need to be addressed to renew a license for each plant.

The Commission believes that, in many instances, this limited set of potential environmental issues will be found to have impacts that are nonexistent or small and, therefore, could be analyzed in an EA that results in a finding of no significant impact (FONSI). If no significant impacts are found in the EA, the NRC will issue a FONSI. If a FONSI cannot be made, the environmental review process would require developing a draft EIS for public comment and a final supplemental EIS. The supplemental EIS would evaluate the environmental impacts identified in the EA and their effect on the overall cost-benefit balance. The NRC will issue a supplemental EIS if any of the issues addressed are determined to have impacts that are negative and either moderate or large, as the terms are defined in proposed Appendix B of Subpart A of Part 51. Impacts that otherwise might be considered moderate could be mitigated to small by commitments made in a license renewal application.

The proposed amendments would define those environmental issues that need to be addressed in an application to renew a license for a single plant. The Commission wishes to emphasize the importance of the public commenting at this time on environmental reviews in the GEIS and the findings in the proposed rule. After the final rule is published, comment on environmental impacts of a licensing renewal action for a plant will be limited to those impacts

that the rule requires to have a plant-specific evaluation.

However, the adoption of the proposed amendments would not preclude reopening environmental issues if significant new information becomes available. A petition to amend 10 CFR part 51 will be acted upon if new information warrants a reopening of issues. The Commission plans to periodically review the GEIS findings contained in appendix B to part 51 and its supporting documentation.

Environmental Impacts To Be Reviewed To Renew a License for Each Plant

The Commission concludes that the adverse environmental impacts of license renewal are minor compared to the benefits to be gained from continued operation for up to an additional 20 years beyond the initial license period. However, the proposed amendments require that each applicant address in its ER those environmental issues for which no generic conclusion can be reached.

The NRC staff, in its GEIS, divided its conclusions about environmental impacts into three categories and further drew a conclusion about the significance of each impact.

The NRC drew one of the following three conclusions about each impact:

Category 1. The NRC reached a conclusion about this impact that applies to all affected plants.

Category 2. The NRC reached a conclusion about this impact that applies to all affected plants that are within certain bounds.

Category 3. The NRC reached a conclusion about this impact that the licensee shall evaluate this impact for each plant for which it applies to renew a license.

The NRC then determined whether the significance of an impact about which it had drawn one of these three conclusions is "small," "moderate," or "large."

- A small impact is so minor that it warrants neither detailed investigation nor consideration of mitigative actions when the impact is negative.
- A moderate impact is usually evident and usually warrants consideration of mitigation alternatives when the impact is negative.
- A large impact involves either a severe penalty or a major benefit and mitigation alternatives are always considered when an impact is negative.

The following includes 2 Category 3 issues and combines 22 Category 2 issues into 10 issues. The issues which must be addressed are as follows:

(1) The applicant must submit an assessment of potential impacts on threatened or endangered species.

(2) Aquatic impacts of entrainment, impingement, and heat shock are potential problems at plants with once-through or cooling-pond heat dissipation systems. However, plant operations and effluents that have the potential to cause these impacts are under the regulatory authority of EPA of State authorities. The permit process authorized by the FWPCA is an adequate mechanism for control and mitigation of these potential aquatic impacts. If an applicant to renew a license has appropriate EPA or State permits, further NRC review of these potential impacts is not warranted. Therefore, the proposed rule requires an applicant to provide the NRC with certification that it holds FWPCA permits, or if State regulation applies, current State permits. If the applicant does not so certify, it must assess these aquatic impacts.

(3) Potential aquatic impacts from any refurbishment activities would be minor or insignificant if best management practices are used to control soil erosion or spills. The proposed rule requires applicants to submit evidence of a construction impact control program.

(4) For plants located at inland sites and using cooling ponds, the applicant must assess groundwater quality impacts.

(5) For plants using Ranney wells or pumping 100 or more gallons per minute and having wells in the cone of depression, the applicant must assess groundwater-use conflicts.

(6) For potential terrestrial impacts, the NRC staff, in the GEIS, concluded that the only potential impact that need be evaluated to renew a license for each plant was any potential impact on important plant and animal habitats. These could include wetlands, wildlife concentration areas, and certain plant life environments. The proposed rule requires applicants to assess any potential impacts on such plant and animal habitats if construction activities generated by refurbishment or extended operation could affect these resources.

(7) The proposed amendments required any license renewal applicant, whose site does not have access to a low-level radioactive waste disposal facility, to assess environmental impacts of low-level waste management.

(8) Each applicant must verify that adequate provisions have been taken to ensure that transmission line electric shock effects are not a health hazard. The applicant may rely on National Electric Safety Codes for this assessment.

(9) An applicant with a plant at a site in a low-population area, as defined by numerical criteria on population and distance from sizable cities or in areas where growth control measures are in effect, must access housing impacts.

(10) For socioeconomic impacts, all applicants must assess potential transportation impacts during refurbishment.

(11) Applicants with plants using cooling ponds, lakes, or canals, or discharging cooling water to small rivers must address effects of microbiological organisms on human health.

(12) Applicants who exceed threshold criteria for cost of refurbishment, operating and maintenance, and fuel costs must submit a cost analysis to demonstrate the cost advantages of license renewal over the most reasonable replacement alternative. Applicants must also assess for certain plants the geothermal alternative.

B. Generic Environmental Impact Statement

The GEIS establishes the bounds and significance of potential environmental impacts at all 118 light-water nuclear power reactors currently licensed to operate or expected to be licensed to operate in the United States (113 nuclear power plants were licensed to operate as of June 30, 1992, plus Bellefonte Units 1 and 2, Comanche Peak Unit 2, and Watts Bar Units 1 and 2). For the GEIS, the NRC staff assessed all environmental issues that may be of concern to the NRC in its reviews of applications to renew operating licenses at these 118 nuclear power plants. The scope of these issues reflects the potential effects of plant refurbishment activities associated with license renewal, an additional 20 years of plant operation, and possible change in the plant environmental setting. For this analysis, all of the environmental issues identified were combined into 104 issues. For each type of environmental impact, the staff attempts to establish generic findings encompassing as many nuclear power plants as possible. Plant- and site-specific information is used in developing these generic findings. In conjunction with the proposed rule change, this GEIS also provides an applicant seeking to renew an operating license information and analyses that it may reference in the application. Further guidance on the format, content, and analysis standards for environmental documentation in their application is provided in draft Regulatory Guide 4.2, Supplement 1.

The analytical approach to assessing environmental impacts in this GEIS involves four stages:

(1) Characterize each issue on the basis of information from past plant construction and current operating experience to establish a baseline.

(2) Assess the extent to which activities and requirements associated with license renewal may differ from the baseline.

(3) Assess potential relevant changes in the environment and estimate trends for the technology and economics of alternative energy sources.

(4) Combine these separate analyses to fully characterize the nature and magnitude of impacts and other issues that will result from the refurbishments necessary for license renewal and the potential environmental impacts of operating plants for 20 years beyond their current 40-year licensing limit.

The upper bound scenario of refurbishment activities and plant operation that may be brought about by license renewal is described in detail in appendix B to the GEIS. All plants are considered enveloped by appendix B to the GEIS. The range of environmental issues considered in the GEIS was identified from past studies of nuclear power plant construction and operation (principally EISs), consultations with Federal and State regulatory agencies, and input from the nuclear utility industry and the general public.

The analyses in the GEIS drew on an extensive body of published materials from government, industry, academia, and other sources about operation and maintenance of nuclear power plants and their effects on the environment. Additional plant-specific information not otherwise available was collected by the Nuclear Utilities Management and Resources Council (NUMARC) and made available to Oak Ridge National Laboratory (ORNL) for use in the report. This information is available in the NRC Public Document Room. A team of environmental specialists from ORNL interviewed Federal, State, and local regulatory officials, as well as persons from business and other private organizations in the vicinity of nuclear power plants, as part of the effort to establish the scope for the GEIS.

The objectives of the GEIS are to (1) provide an understanding of the types and severity of environmental impacts that may occur as a result of renewing operating licenses for nuclear power plants, (2) identify and assess those impacts expected to be generic to license renewal, and (3) define the issues that need to be addressed by the NRC and the applicants in plant-specific license renewal proceedings.

The broad topical areas covered are surface-water quality, aquatic ecology, groundwater, terrestrial ecology, human health, socioeconomics, postulated accidents, waste management, decommissioning, need for generating capacity, and alternatives to license renewal.

In the GEIS, the NRC staff identified and evaluated the significance of the environmental impact of each of 104 environmental issues associated with the renewal of individual plant licenses. For 80 issues, the staff reached a generic conclusion that the potential environmental impacts are acceptable. For 22 issues, this conclusion could be reached for some subset of all nuclear power plants that were within bounds defined in the GEIS. For 2 issues, the staff concluded that no generic conclusion on impacts could be reached.

The Commission is proposing to limit the scope of environmental review for each plant license renewal to only those impacts for which no generic conclusion could be reached (i.e., Categories 2 and 3). All applicants will be required to provide appropriate information and analyses in their license renewal applications for all Category 2 and 3 impacts identified in the GEIS.

An evaluation of the impacts that have been assessed on a generic basis is summarized in a proposed new appendix B to part 51.

The NRC's NEPA review procedures in part 51 require "a preliminary analysis which considers and balances the environmental and other effects of the proposed action and the alternatives available for reducing or avoiding adverse environmental and other effects, as well as the environmental, economic, technical, and other benefits of the proposed action" (§ 51.71(d)). This analysis is found in chapter 10 of the GEIS. Table 10.1, "Summary of Conclusions on NEPA Issues" in the GEIS is included in these proposed amendments as proposed Table B.1 of appendix B of subpart A of part 51. The table lists each environmental issue addressed in the GEIS, states the conclusions, and includes an assessment of the benefit or cost involved. The major benefit is the electric energy that would be produced by a plant whose license is renewed. The major economic costs are those for refurbishing and for operating and maintaining a plant during the renewal term of up to 20 years. For those adverse environmental impacts that can be assessed generically (Category 1 and, for a subset of plants, Category 2), the adverse impact is identified as small. For environmental impacts for which generic conclusions can be reached, Table B–1 shows that no adverse environmental impacts exist that would offset the benefits of license renewal.

The other NEPA review requirements in 10 CFR part 51 that have been codified in Table B–1 are a review of short- and long-term benefits and productivity and irreversible commitments of resources. The principal short-term benefit from continued operation of nuclear plants is the production of electrical energy from an existing capital asset.

The Commission finds that the resource commitments involved in license renewal do not differ from resource commitments required during the initial operating license term. However, additional nuclear fuel will be used, and small amounts of materials will be used for plant refurbishment. A minor amount of additional land would be used.

Summary of Issues Analyzed in the GEIS

The following describes those environmental issues that were examined for the GEIS, and summarizes the conclusions by major topical area.

1. Surface Water Quality

For the GEIS, the NRC staff examined water quality, water-use conflicts, altered salinity gradients, altered current patterns, temperature effects on sediment transport, altered thermal stratification, scouring caused by discharged cooling water, eutrophication, discharge of chlorine or other biocides or chemical contaminants, and discharge of sanitary wastes.

Aquatic impacts from plant refurbishment activities to support license renewal could occur at any type of plant if erosion or spills occur. In the GEIS, the staff concluded that "best management practices" need to be used during refurbishment to prevent adverse impacts. Site-specific mitigation measures can be implemented during refurbishment to prevent or minimize construction-related aquatic impacts from erosion or spills. These impacts are normally of limited duration and affect only a portion of the aquatic environment. Potential impacts on threatened or endangered species cannot be assessed generically and will require plant-specific analysis.

2. Aquatic Ecology

For the GEIS, the staff examined impingement and entrainment, heat shock, cold shock, thermal plume barriers to migration, premature emergence of aquatic insects,

stimulation of nuisance organisms, gas supersaturation, low dissolved oxygen in the discharge, accumulation of contaminants in sediment or biota, and losses from predators, parasites, and disease.

For nuclear power plants using once-through cooling systems, the operational experience of existing plants indicates that many early concerns about aquatic resources have not materialized. Neither the published literature nor the responses of regulatory and resource agencies have revealed potential concerns about such early issues as phytoplankton and zooplankton entrainment and premature emergence of aquatic insects in thermal discharges. Although significant localized effects of these stresses have occasionally been demonstrated, the populations' rapid regeneration and biological compensatory mechanisms are sufficient to preclude long-term or far-field impacts.

However, some issues involving aquatic resources warranted further monitoring, and in some cases, mitigative measures to define and correct adverse impacts. The entrainment and impingement of fish and the discharge of large volumes of heated effluents into small or warm ambient waters were a source of concern at some nuclear power plants. These issues were examined and resolved through the mechanisms of NPDES permits and associated FWPCA 316(a) and (b) determinations and were either found to be acceptable or actions were implemented to mitigate the problems. For a few plants, the NPDES process has not been completed and the issues relating impingement, entrainment, and thermal discharges have not all been resolved. For these plants, issues relating to intake and discharge effects on fish and shellfish may be unresolved.

Resource agencies are expending major efforts to restore anadromous fish runs, particularly salmon and American shad, through water quality improvements, stocking, and removal of migration barriers. As a result, a number of the agencies have expressed concerns about future impingement and entrainment impacts at plants that operate on certain rivers. These concerns are routinely addressed during the NPDES permit renewal process. Nuclear power plants with once-through cooling systems that currently discharge cooling water near the upper temperature limits of their NPDES permits may find complying with those requirements increasingly difficult if climates change and ambient water temperatures warm in the coming decades. Under these conditions, such plants may need to modify their operations during the warmest months or rely more on helper cooling towers to prevent adverse thermal impacts. Continuing to consult resource agencies and permitting agencies and to promptly resolve NPDES permit issues are expected to ensure that future changes in the environment do not lead to unacceptable impacts on aquatic ecology.

3. Groundwater Use and Quality

For the GEIS, the NRC staff examined groundwater use and quality; groundwater-use conflicts, including use of Ranney wells; and groundwater quality degradation and concluded that ground-water use conflicts and quality degradation may be a problem at certain plants. Groundwater quality at some river sites may be degraded by induced infiltration of poor-quality river water into an aquifer that supplies large quantities of plant cooling water.

Sites with closed-cycle cooling ponds may degrade groundwater quality. For those plants located inland, the quality of groundwater in the vicinity of ponds must be shown to remain within the State regulatory agency's defined-use category.

4. Terrestrial Ecology

For the GEIS, the NRC staff examined refurbishment impacts, cooling tower impacts on crops and native plants, bird collisions with cooling towers and transmission lines, cooling-pond impacts, power line right-of-way management, electromagnetic field effects, and effects on floodplains and wetlands, threatened or endangered species, air quality, and land use.

Refurbishment activities would disturb only small areas of land and should result in no significant loss of terrestrial habitats. Air quality impacts from refurbishment are not expected to lead to significant environmental impact. Salt draft from cooling towers at nuclear plants has not been shown to threaten agricultural crops, orchards, or other cultivated vegetation. Cooling tower operation has not been reported to reduce crops yields except in situations where crops were experimentally placed next to cooling towers. No significant adverse impacts of transmission lines and their maintenance was identified. Potential refurbishment impacts that will require an analysis for each plant would be those that may occur if one or more important terrestrial resources (wetlands, endangered species) would be affected.

5. Public Health

For the GEIS, the NRC staff examined radiation exposures to the public, occupational radiation exposures from refurbishment and extended operation, acute and chronic health effects of the electromagnetic fields of transmission lines, microbiological organisms associated with the cooling system known as the ultimate heat sink and noise.

For the GEIS, the staff assessed public health impacts from refurbishment activities and extended operation. Occupational exposure and doses to the public are expected to remain well within regulatory limits. The 9 plants using cooling ponds, lakes, or canals and the 14 plants discharging to small rivers have the potential to influence thermophilic organisms. Health questions related to public use of affected waters need to be addressed by utilities for each plant license renewal. The potential for electrical shock-induced currents from transmission lines should be reviewed with respect to the National Electric Safety Code (NESC) recommendations. Biological and physical studies of 60-Hz electromagnetic fields have not demonstrated consistent evidence linking harmful effects with field exposures.

6. Socioeconomics

For the GEIS, the staff assessed impacts in the following socioeconomic areas: housing, taxes, public services (excluding transportation), transportation, offsite land use, economic structure, and historic and aesthetic resources. They examined impacts from refurbishment activities as well as extended operation of nuclear power plants and reached generic conclusions for taxes, public services, excluding transportation, offsite land use, transportation impacts during continued operation, economic structure, and historic and aesthetic resources. These impacts may be either positive (taxes, employment, income) or negative, but small, and thus need not be addressed for each plant.

Housing impacts during refurbishment could be negative and potentially significant (moderate or large impact) for plants located in areas categorized as "low" population or as those that have growth control measures to limit housing development. In particular circumstances, transportation impacts during refurbishment could also be negative and significant. As a result, only housing and transportation issues need to be evaluated for each plant.

7. Uranium Fuel Cycle

For the GEIS, the NRC staff assessed the impacts of the uranium fuel cycle, which is based on the values given in 10 CFR 51.51 Table S–3, and analyzed the radiological impact from radon-222 and technetium-99. Categories of natural resource use that were analyzed include land use, water consumption and thermal effluents, radioactive releases, burial of transuranic and high- and low-level wastes, and radiation doses from transportation and occupational exposures. Radiological and nonradiological impacts were found to be small.

8. Waste Management

For the GEIS, the NRC staff examined the potential environmental impacts from the generation of various types of wastes during refurbishment and extended operation for an additional 20 years. More specifically, the staff examined nonradiological waste, mixed waste, low-level radiological waste storage and disposal, spent fuel storage and disposal, and transportation.

In the GEIS, the staff concluded that license renewal would have only minor impacts on mixed waste and nonradiological waste management activities. For low-level radioactive waste, onsite storage was judged to be adequate as suitable land is available at all plants for interim storage of additional waste from refurbishment and extended plant operation if disposal sites continue to accept waste in normal increments. The conclusions regarding low-level radioactive waste disposal hinge on the timely implementation of present plans for siting regional compact and individual State disposal sites. If circumstances change and the GEIS assumptions are no longer valid, these impacts would need to be addressed for each plant.

The greater volume of spent fuel resulting from up to 20 years of operation beyond the 40-year license can be safely accommodated onsite through dry or pool storage at all plants. The staff concluded that radioactive waste transportation impacts were small and bounded by the values in 10 CFR 51.52, Table S–4.

9. Postulated Accidents

For Chapter 5 of the GEIS, the NRC staff evaluated the environmental impacts of postulated accidents for the license renewal period. This evaluation included severe accidents as well as design-basis accidents. For design-basis accidents, all plants have had a previous evaluation of their environmental impacts. In addition, the licensees will be required to maintain acceptable design and performance criteria throughout the plant license renewal period. The calculated releases from design-basis accidents would not be expected to change. Therefore, the NRC staff concluded that the design of the plants associated with impacts from design-basis accidents remains acceptable. Severe accident environmental impacts were not evaluated in the past for all plants. However, since 1981, all plant FESs have included an analysis of severe accidents. In addition, in the past 10 years, extensive work has taken place on severe accident analysis and safety issue resolution. Therefore, the severe accident analyses done previously in support of FESs (a total of 27 FESs contain analyses of severe accidents) plus the results of other severe accident analyses done in the past were utilized and extrapolated to predict the severe accident environmental impacts for all plants at the midpoint of their license renewal period. For this assessment, the staff evaluted the environmental impacts of releases of radioactive materials to the atmosphere and groundwater as well as fallout over land and water. In addition, they evaluated the economic consequences of such accidents and the need to evaluate severe accident mitigation design alternatives (SAMDAs).

In the GEIS, the staff concluded that the environmental impacts of severe accidents during the license renewal period represent a low risk to the population and environment. Although the offsite consequences are potentially large, they are of low likelihood. Because of the low likelihood, the staff concluded that these impacts need not be considered further for each plant license renewal application. In addition to the low risk, Commission policy is to consider SAMDAs only at the initial construction stage (during which plant design features may be more easily incorporated). Accordingly, SAMDA evaluations at the license renewal stage are not necessary.

10. Decommissioning

For the GEIS, the staff examined radiation doses, waste management, air quality, water quality, ecological resources, economic impacts, and socioeconomic impacts.

The physical requirements and attendant effects of decommissioning nuclear power plants after a 20-year license renewal period are not expected to be different from those of decommissioning at the end of the current 40-year license period. Decommissioning after a 20-year license renewal period would increase the occupational dose by about 0.5 person-rem and the public dose by a negligible amount. License renewal would not increase the quantity or classification of low-level radioactive waste generated by decommissioning to any appreciable extent. Air and water quality and ecological impacts of decommissioning would not change as a result of license renewal.

Considerable uncertainty exists about the cost of decommissioning. While license renewal would not be expected to change the ultimate cost of decommissioning, it would reduce the present value of the cost. The socioeconomic effects of decommissioning will depend on the magnitude of the decommissioning effort, the size of the community, and other economic activities at the time. However, the NRC does not expect that the impacts would be increased by decommissioning at the end of a 20-year license renewal period rather than at the end of the current license term. Because the NRC can reach a generic conclusion on the acceptability of the incremental impacts of decommissioning for all plants, impacts on decommissioning need not be evaluated for each plant license renewal application.

11. Need for Generating Capacity

Projections of the demand for electric power from 1991 to 2030 in each of the 11 Department of Energy regions indicate that a need will exist for the generating capacity represented by license renewal of plants in all 11 regions. The projection included demands for both individual and utility service areas, which showed that the generating capacity of each nuclear power plant would be needed to meet the nation's electric power demand.

12. Alternatives to License Renewal

In chapter 8 of the GEIS, the staff established the need for the electric-generating capacity represented by the renewal of operating licenses. Chapter 9 of the GEIS addresses how the demand for this generating capacity could be filled by alternatives to license renewal and weighed the alternatives against that of license renewal.

In the GEIS, the staff concluded that new fossil-fuel and nuclear power plants are reasonable alternatives for replacing of retired nuclear capacity because they are proven commercial power-generating technologies, they can provide the baseload capacity currently generated by large nuclear units, and they are available nationwide. However, on balance, none of these alternatives

offer significant environmental advantages over license renewal. In fact, license renewal of existing nuclear generating capacity would delay or eliminate the environmental impacts associated with constructing replacement power plants. The principal issues associated with operation of new fossil plants are emissions of pollutants. This includes SO_x, NO_x, and CO_x which contribute to the degradation of air quality, including acid rain and decreased visibility, and increase the potential for global warming and climate change. Although license renewal is expected to be more advantageous than new fossil or new nuclear plants from a cost perspective in most situations, a decision to seek license renewal is a prerogative of individual utilities. For the GEIS, the staff evaluated several studies and developed an independent estimate. Each study focused on comparing the costs of license renewal and new coal-generated capacity. From this comparison, the staff concluded that license renewal offers significant savings under a diverse set of conditions over new coal-generated capacity. However, differences in operating parameters and performance of nuclear plants would affect the actual cost savings for each plant.

With respect to renewable energy sources, the staff finds that wind, sun, water, and biomass are not preferred near-term alternatives to license renewal because of technological limitations (nonbaseload power sources), availability, and economics. The potential exists for small-scale regional application of geothermal energy to replace a small fraction of current nuclear baseload capacity.

Therefore, in the GEIS, the staff concludes, for the nation as a whole, license renewal is preferable to replacing the generating capacity with a new facility. Because some uncertainty is associated with the economic costs of license renewal caused by the plant-specific nature of the refurbishment required, a limited data submittal including analysis of cost of refurbishment, should accompany each license renewal application. If these data meet the threshold criterion, no analysis of alternatives need accompanying the license application. If the submittal shows that license renewal cannot meet the threshold criterion, the applicant should submit an analysis of the most reasonable alternative. In addition, licensees for plants in California, Oregon, Washington, or Arizona should submit a cost comparison of license renewal to geothermal energy.

C. Regulatory Guidance To Support the 10 CFR Part 51 Revisions

To ensure proper implementation of the revised sections of 10 CFR part 51, the NRC is issuing a draft regulatory guide and a draft environmental standard review plan for license renewal. Both documents are being published concurrently with these proposed amendments. The draft guide, identified as Draft Supplement 1 to Regulatory Guide 4.2, establishes a uniform format and content acceptable to the staff for structuring and presenting the environmental information to be compiled and submitted by an applicant to renew an operating license. More specifically, this draft regulatory guide describes the content of environmental information to be included in a license renewal application, including the criteria to address appropriate Category 2 issues as specified in the proposed amendments to 10 CFR part 51.

Draft "Environmental Standard Review Plan for License Renewal" (ESRP–LR) NUREG–1429 provides guidance for the NRC staff when performing a 10 CFR part 51 environmental review of an application to renew an operating license. The plan parallels Regulatory Guide 4.2, Supplement 1. The primary purpose of the ESRP–LR is to ensure that these reviews are focused on those environmental concerns associated with license renewal as described in 10 CFR part 51. Specifically, it provides guidance to the NRC staff about environmental issues that should be reviewed and provides acceptance criteria to help the reviewer evaluate the information submitted as part of the license renewal appliation. It is also the intent of this plan to make information about the regulatory process available and to improve communication between the NRC, interested members of the public, and the nuclear power industry, thereby increasing understanding of the review process.

D. Public Comments on Advance Notice of Proposed Rulemaking

On July 23, 1990, the NRC published in the **Federal Register** an advance notice of proposed rulemaking (ANPR) (55 FR 29964) and a companion notice of intent to prepare a generic environmental impact statement (55 FR 29967). Advice and recommendations on the proposed rulemaking were invited from all interested persons. Comments were requested on nine specific questions. Comment were received from 29 groups and individuals. Two private individuals were opposed to the rulemaking. Of five citizens groups; one supported, three supported with qualifications, and one opposed the rulemaking. Of the two State agencies responding, one supported the rulemaking and one supported it with qualifications. Three Federal agencies supported the rulemaking with qualifications. All 16 NRC nuclear power plant licensees commenting on the ANPR supported the rulemaking. The one industry group that submitted comments supported the rulemaking. A summary of comments on each question and the staff response are as follows:

Question No. 1. Is a generic environmental impact statement or an environmental assessment required by the NEPA to support this propoed rulemaking or can the rulemaking be supported by a technical study?

Comments: Strong support for a generic environmental survey (GES) rather than a full GEIS to provide the technical basis for the rulemaking was expressed by the NUMARC, nuclear utilities, the U.S. Department of Energy, and Americans for Nuclear Energy, Inc. The EPA and the State of Wisconsin Public Service Commission (WPSC) support development of a comprehensive GEIS. Other comments offered no specific opinion on a GEIS versus a generic environmental survey. Supporters of the generic environmental survey approach stated that it is legally acceptable and would be less costly and less subject to delays. Supporters of a comprehensive GEIS believed that it is a feasible approach and a prudent one.

NRC Response: The NRC believes that while the GES provides an alternative approach to rulemaking, the GEIS approach is preferable and has been used to develop the proposed rule. The purpose of this rulemaking is to resolve as many National Environmental Policy Act (NEPA) issues as possible before beginning plant-by-plant license renewal reviews. Although the NRC recognized the possibility that not all NEPA issues would be fully resolvable in the GEIS, the NRC did not wish to make *a priori* judgments about which issues could be resolved generically and which could not. Also, even though some issues may not be fully resolved generically, the analyses performed for the GEIS have helped sharpen and focus the issues that must be addressed in specific license renewal reviews. To these ends the NEPA procedures specified in 10 CFR part 51 and followed in developing the GEIS do have the advantage of resulting in a comprehensive GEIS and rule that have been extensively reviewed by multiple outside, interested parties and therefore,

will be stronger in focusing and limiting environmental discussion during license renewal.

In addition, a GES need not follow NEPA-mandated public comment requirements. It is envisioned as a scientific document, whose contents are similar in some ways to a GEIS, but it is published in final form without public comment. However, a GES need discuss neither alternatives to license renewal nor the cost-benefit balance of the major federal action (license renewal) under discussion. Therefore, use of a GES as support for limiting environmental discussion a license renewal hearings would weaken this rulemaking endeavor because of the lack of public participation in commenting on this cornerstone document and lack of compliance with the full-disclosure provision of NEPA.

Question No. 2. What alternative forms of codifying the findings of the generic environmental impact statement should be considered?

Comments: This question was not specifically addressed by most commenters. The NUMARC recommended that the findings of the GEIS be codified by classifying potential environmental impacts of license renewal into four categories that it described.

NRC Response: The NRC believes that the categories used in the GEIS and the results of the evaluation in chapter 10 of the GEIS permit codification of findings that is at least as adequate as would result from the NUMARC recommendation. The approach taken in the proposed rulemaking to codify the results of the GEIS is a mix of the four approaches identified in the ANPR.

Question No. 3. What activities associated with license renewal will lead to environmental impacts?

Comments: Several respondents addressed this question in general terms. NUMARC stated: "In general, most of the activities associated with license renewal that may have environmental impacts are the same activities considered in environmental evaluations for the initial licenses." Activities associated with license renewal are more fully discussed in a document that NUMARC submitted with its comments. The document is "Study of Generic Environmental Issues Related to License Renewal," dated May 9, 1989. A State agency identified a number of replacement activities that would result in generating low-level radioactive waste and radiation doses to workers engaged in these activities.

NRC Response: In May 1989, NUMARC submitted a study to the NRC in the context of the rulemaking on 10 CFR Part 54, "Requirements for Renewal of Operating Licenses for Nuclear Power Plants." Information on plant modification and operation activities associated with license renewal in this document was reviewed and considered in preparing the GEIS. Activities associated with license renewal that were identified by the State agency are addressed in the GEIS in chapter 2 and appendix B.

Question No. 4. What topical areas should be covered in the generic environmental impact statements? Should the proposed outline be supplemented or restructured?

Comments: Respondents to this question identified priority topics that should be covered in the GEIS and commented on the completeness of the scope of these topics. Those addressing the scope of such topics generally were satisfied with the list in the ANPR. Most concerns were with the balance of the treatment of topics within the outline. NUMARC, supported by member utilities, believed that some topics such as plant modifications associated with license renewal and decommissioning are unduly emphasized by being given major section status. A number of respondents discussed topical areas already identified in the ANPR about which they were particularly concerned. Several topics not identified in the ANPR were identified as concerns by one or more respondents. Concern was expressed that the pool of trained nuclear engineers is diminishing. Thus, operators may be less well qualified in the future. A respondent stated that each type of reactor should be treated separately. A Federal agency stated that the GEIS could assess the utilities' efforts to comply with the Public Utilities Regulatory Policy Act (PURPA) for financial assistance to private cogeneration facilities and that it could also assess the utilities' efforts to comply with State and local conservation efforts.

The WPSC raised the following four points not explicitly covered in the ANPR:

(1) Regarding the need for generating capacity, whether the NRC should defer to the relevant State agency's determination of need for generating capacity;

(2) Whether an accident that has the potential for leading to a demand by the public that all reactors be shut down could jeopardize the supply of electricity;

(3) Whether plant management history will be considered in a license renewal decision; and

(4) Whether embrittlement of the reactor pressure vessel may result in shutting plants down for susceptibility to pressurized thermal shock soon after extending the license.

NRC Response: The NRC believes that the scope of the GEIS accommodates most of the issues of concern raised in the comments. However some issues raised are beyond the scope of the GEIS. The NRC will ensure the qualification of operators in the future through NRC regulations, especially 10 CFR Part 55, "Operator's Licenses". The NRC has not explicitly assessed compliance with PURPA and State and local conservation efforts on a utility-by-utility basis and it does not believe it is necessary to do so. Conservation and cogeneration projections are already incorporated in forecasts of need for generating capacity.

Regarding WPSC's comment that the NRC should defer to the determination of need that relevant State agencies made, the NRC encourages State agencies to review analyses in the GEIS for consistency with their own analyses and to comment on any significant disagreements between them. Regarding the concern about a possible public demand to shut down all reactors after a severe accident at one, the NRC assumes in the GEIS that the programs described in Chapter 5 of the GEIS will maintain a low probability of a severe accident and that a shutdown of all reactors is speculative. Management history is not an issue that is addressed in the GEIS or the proposed rule. Although management action will be continually monitored through the operating life of any plant, it will not be a major topic evaluated to renew a license. The NRC will consider the embrittlement status of the reactor pressure vessel for a license renewal, and its status may indeed limit the term or bar the issuance of a renewed license.

Question No. 5. For each topical area, what are the specific environmental issues that should be addressed?

Comments: NUMARC was the only respondent who specifically addressed this question. Several other respondents did identify specific topics and environmental issues that concerned them. These other responses are addressed under Question No. 4. NUMARC referred the NRC to the detailed areas treated in the NUMARC report titled "Study of Generic Environmental Issues Related to License Renewal," dated May 9, 1989, and submitted to the NRC in May 1989.

NRC Response: The NUMARC report has been reviewed and was considered in developing the scope and analyses of the GEIS.

Question No. 6. For each topical area and each specific issue, what information and data are required to perform generic analyses? Where do the information and data exist?

Comments: NUMARC referred to its study submitted to the NRC titled, "Study of Generic Environmental Issues Related to License Renewal," and point out that the study contains relevant information and an extensive list of data sources. The EPA offered to provide information about the effect of electromagnetic frequency radiation and global climate change. The WPSC stated that information about the need for power, the amount of conservation that is technically and economically possible, and load management exists at each utility and at the corresponding State utility commission.

NRC Response: All information in the NUMARC study was reviewed and was used as appropriate in developing the GEIS. The NRC considered the EPA's information and guidance on effects of electromagnetic frequency radiation and global climate change. In the GEIS, the NRC took a regional generic approach about the need for power, conservation, and load management. The NRC believes this is an adequate analysis to establish the need for generating capacity for each plant but is requesting comment on its analysis.

Question No. 7. For each topical area and each specific issue, what criteria should be used to judge the significance of the environmental impact?

Comments: This question was specifically addressed by NUMARC and Yankee Atomic Electric Company. NUMARC provided the more detailed response, and it was consistent with the Yankee Atomic response. NUMARC made a number of general observations about the significance criteria embodied in the NRC practice in the environmental and associated safety areas and in the CEQ guidelines. They provided examples of significant criteria for endangered species, impacts to aquatic biota, and radiological impacts.

NRC Response: These comments generally support the approach to determine the significance of environmental issues employed in the GEIS.

Question No. 8. For each topical area and each specific issue, what is the potential for successful analysis?

Comments: NUMARC addressed this question in detail. Commenting utilities supported the NUMARC response. Other responses ranged from a general statement that generic treatment is not feasible to a general statement that generic treatment is feasible. Several commenters each mentioned doubts about the possibility of generic treatment of at least some of the following: need for generating capacity, alternatives, climate change, impacts from refurbishment and continued operation, and severe accidents. NUMARC stated that "nearly all, if not all, of the impacts associated with license renewal have been found amenable to generic analysis." Using the four categories of generic conclusions (see Question No. 2), NUMARC presented conclusions on the categorization of various impacts from plant operation, plant modification, accidents, decommissioning, need for generating capacity, and alternative generating capacity.

NRC Response: The NRC considered the positions offered in comments on the potential of generic analysis for each topical area and each specific issue. The NRC findings are summarized in chapter 10 of the GEIS. The NRC believes that the approach taken in the GEIS resulted in generic conclusions that both encompass site- and region-specific considerations and consider forecasting uncertainties.

Question No. 9. What length of extended operating time can reasonably be addressed in the proposed rulemaking? To what extent is it possible to reach generic conclusions about the environmental impacts that would be applicable to plants having renewed operating licenses expiring in the year 2030, 2040, or 2050?

Comments: Several commenters had doubts about the accuracy of long-term forecasts of need for generating capacity, alternative energy sources, climate change, and severe accidents. NUMARC specifically addressed this question and pointed out that environmental impact evaluations are performed for new plants for 40 to 50 years into the future, but that unlike new plants, applicants who will apply for plant license renewal have an operating history with accumulated monitoring data. NUMARC also stated that the NRC has the option of revising the GEIS at any future time if experience shows an impact that deviates significantly from its predicted value.

NRC Response: The NRC agrees with NUMARC's observations and believes the conclusions reached in the GEIS issue reflect careful consideration of future uncertainties.

IV. Questions

Public comment on conclusions about potential environmental impacts is being solicited as part of this rulemaking. The Commission will evaluate comments on this notice and the draft GEIS before publishing a final rule.

In addition to general comments on the proposed rulemaking, the Commission is especially interested in public responses to the following questions:

(1) Should the NRC staff have the flexibility, as provided in the proposed rule, to choose to prepare an environmental assessment instead of a supplemental environmental impact statement for each plant license to be renewed? In answering this question, please consider whether it makes a difference if this proposed rulemaking is supported by a generic environmental survey rather than a full GEIS?

(2) For presenting a full discussion of environmental impacts from postulated accidents as required by the NEPA:

(a) Is the exposure index (EI) method, as used in chapter 5 of the GEIS to predict potential environmental impacts of atmospheric releases of radioactive material from a severe accident, sufficient to present for consideration the potential impacts from severe accident of atmospheric releases for all plants for the license renewal period? If not, what alternative analyses would be acceptable?

(b) Is the method of analysis of radionuclide deposition from fallout over open bodies of water from severe accidents of atmospheric releases, as used in chapter 5 of the GEIS, sufficient to present for consideration the potential impacts of atmospheric fallout for all plants? If not, what alternative analyses would be acceptable?

(c) Is the method of analysis of releases to groundwater from severe accidents, as used in chapter 5 of the GEIS, sufficient to present for consideration the potential impacts of releases to groundwater for all plants? If not, what alternative analyses would be acceptable?

(3) It is reasonable to conclude that, based upon the calculated low risk to the environment from severe accidents and the June 13, 1990, Commission Policy Statement on accident considerations under the NEPA (45 FR 40101), SAMDAs need not be considered in individual license renewal applications? If not, what alternative would be acceptable?

(4) What significant environmental issues, if any, have not been evaluated in the GEIS?

(5) Which evaluations presented, if any, are not sufficient for drawing generic conclusions?

(6) What additional analyses can be done to further address the Category 2 and 3 items? For example, what screening criteria could be applied to local transportation during

refurbishment and to threatened and endangered species to change these issues from Category 3 to Category 2? Are the criteria for meeting the defined bounding conditions for each of the Category 2 items sufficiently clear?

(7) The GEIS and this proposed action apply to all plants currently holding an OL or CP, except for Washington Nuclear Plant 1 and 3, Grand Gulf 2, and Perry 2. Should these plants be included in the scope of this action?

V. Availability of Documents

The principal supporting documents of this supplementary information are as follows:

(1) Draft Generic Environmental Impact Statement, NUREG–1437

(2) Draft Regulatory Analysis: Proposed Part 51 Amendments, NUREG–1440

(3) Draft Supplement to Regulatory Guide 4.2 (DG–4002)

(4) Draft Environmental Standard Review Plan—License Renewal, NUREG–1429

A free single copy of each of these documents, to the extent of supply, may be requested by those who are considering commenting by writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555 (ATTN: Distribution and Mail Services Section). Copies of all documents cited in the supplementary information are available for inspection and/or for copying for a fee, in the NRC Public Document Room, 2120 L St. NW. (Lower Level), Washington, DC.

In addition, copies of NRC documents cited here may be purchased from the Superintendent of Documents, U.S. Government Printing Office, PO Box 37082, Washington, DC 20013–7082. Copies are also available for purchase from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

VI. Workshop

A workshop is being scheduled during which experts with a diversity of perspectives can review the technical basis of the proposed amendments. Such interaction is expected to contribute information for the NRC to consider that may not otherwise have surfaced through written comments on the proposed amendments. In addition, the workshop may provide additional information that will assist those who comment in developing written comments.

The workshop is being designed to focus on the substantive technical findings of the GEIS codified in the proposed amendment. Workshop sessions will correspond to the major topical areas found in the GEIS and appendix B of subpart A of 10 CFR part 51. Workshop participants will be experts selected from industry, Federal and State agencies, and environmental organizations. Each workshop concurrent session will be limited to 15 participants and will be conducted in a panel format. Questions and statements from the audience will be taken if time permits.

Comments are invited on the following tentative agenda.

Day 1

7:45–8:30 Registration
8:30–8:45 Welcome
8:45–9:00 Workshop objectives, structure, ground rules
9:00–10:15 General Session—GEIS and proposed 10 CFR part 51 rulemaking overview
10:15–10:30 Break
10:30–11:45 General Session (cont.)
11:45–1:00 Lunch
1:00–3:00 *Concurrent Sessions*
- A. Surface Water, Aquatic Ecology, Groundwater
- B. Terrestrial Ecology, Land Use
- C. Socioeconomics

3:00–3:15 Break
3:15–5:15 *Concurrent Sessions*
- D. Decommissioning
- E. Human Health
- F. Need for Generating Capacity and Direct Economic Costs and Benefits

Day 2

8:30–10:15 *Concurrent Sessions*
- G. Postulated Accidents
- H. Solid Waste Management
- I. Alternatives

10:15–10:30 Break
10:30–11:45 Concurrent Sessions G, H and I (cont.)
11:45–1:00 Lunch
1:00–2:00 General Session—NEPA Process
2:00–3:00 Summary and Conclusion of Sessions

VII. Submittal of Comments in an Electronic Format

Commenters are encouraged to submit, in addition to the original paper copy, a copy of their letter in an electronic format on IBM PC DOS-compatible 3.5- or 5.25-inch, double-sided, double-density (DS/DD) diskettes. Data files should be provided in Wordperfect 5.1. ASCII code is also acceptable or, if formatted text is required, data files should be provided in IBM Revisable-Form Text Document Content Architecture (RFT/DCA) format.

VIII. Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed regulation is the type of action described in categorical exclusion 10 CFR 51.22(c)(3). Therefore neither an environmental impact statement nor an environmental assessment has been prepared for this proposed regulation. This action is procedural in nature in that it pertains to the type of environmental information to be reviewed.

IX. Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This rule has been submitted to the Office of Management and Budget for review and approval of the paperwork requirements. Public reporting burden for this collection of information is estimated to average about 3000 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Information and Records Management Branch (MNBB–7714), U.S. Nuclear Regulatory Commission, Washington, DC 20555 and to the Desk Officer Office of Information and Regulatory Affairs, NEOB–3019 (3150–0021), Office of Management and Budget, Washington, DC 20503.

X. Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The two alternatives considered were (a) retaining the existing part 51 review process for license renewal, which requires that all review be done on a plant-specific basis, and (b) amending part 51 to allow a portion of the environmental review to be conducted on a generic basis. The conclusions of the draft regulatory analysis show substantial cost savings of alternative (b) over alternative (a).

The draft analysis is available for inspection in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC. Copies of the analysis are available as described in Section V of this proposed rule. The Commission requests public comment on the draft regulatory analysis. Comments on the draft analysis may be submitted to the NRC as indicated under the addresses' heading.

XI. Regulatory Flexibility Act Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this proposed rule will not have a significant impact on a substantial number of small entities. The proposed rule states application procedures and environmental information to be submitted by nuclear power plant licensees to facilitate the NRC's obligations under the NEPA. Nuclear power plant licensees do not fall within the definition of small businesses as defined in section 3 of the Small Business Act, 15 U.S.C. 632, the Small Business Size Standards of the Small Business Administrator (13 CFR part 121), or the Commission's Size Standards (50 FR 50241; December 9, 1985).

XII. Backfit Analysis

The rulemaking does not constitute a "backfit" as defined in 10 CFR 50.109(a)(1) and a backfit analysis need not be prepared. This rule addresses procedural requirements for considering the environmental effects of issuing a renewed operating license for a nuclear power plant. The Commission has not previously addressed these requirements either in rulemaking or in guidance documents. Moreover, policy considerations weigh against considering part 51 and its amendments as a "backfit." The primary impetus for the Backfit Rule was "regulatory stability," namely, that once the Commission decides to issue a license, the terms and conditions for operating under that license would not be arbitrarily changed *post hoc*. Regulatory stability is not a relevant issue with respect to license renewal. This rule has only a prospective effect upon nuclear power plant licensees. No licensee currently holds a renewed nuclear power plant operating license and therefore, no valid expectations could be changed regarding the terms and conditions for holding a renewed operating license.

List of Subjects in 10 CFR Part 51

Administrative practice and procedure, Environmental impact statement, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the National Environmental Policy Act of 1969, as amended; and 5 U.S.C. 553; the NRC is proposing to adopt the following amendments to 10 CFR part 51.

PART 51—ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS

1. The authority citation for part 51 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842). Subpart A also issued under National Environmental Policy Act of 1969, secs. 102, 104, 105, 83 Stat. 853–854, as amended (42 U.S.C. 4332, 4334, 4335); and Pub. L. 95–604, Title II, 92 Stat. 3033–3041. Sections 51.20, 51.30, 51.60, 51.61, 51.80, and 51.97 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241, and sec. 148, Pub. L. 100–203, 101 Stat. 1330–223 (42 U.S.C. 10155, 10161, 10168). Section 51.22 also issued under sec. 274, 73 Stat. 688, as amended by 92 Stat. 3036–3038 (42 U.S.C. 2021) and under Nuclear Waste Policy Act of 1982, sec. 121, 96 Stat. 2228 (42 U.S.C. 10141). Sections 51.43, 51.67, and 51.109 also under Nuclear Waste Policy Act of 1982, sec. 114(f), 96 Stat. 2216, as amended (42 U.S.C. 10134(f)).

2. Section 51.20 is amended by revising paragraph (b)(2) to read as follows:

§ 51.20 Criteria for and identification of licensing and regulatory actions requiring environmental impact statements.

* * * * *

(b) * * *

(2) Issuance of a full-power or design-capacity license to operate a nuclear power reactor pursuant to part 50 of this chapter, or issuance or renewal of a full-power or design-capacity license to operate a testing facility or a fuel reprocessing plant pursuant to part 50 of this chapter.

* * * * *

2A. Footnotes 3 through 8 in part 51 are redesignated as footnotes 5 through 10.

3. Section 51.53 is revised to read as follows:

§ 51.53 Supplement to environmental report.

(a) *General.* Any supplement to an environmental report prepared under the provisions of this section may incorporate by reference any information contained in a prior environmental report or supplement thereto that relates to the same production or utilization facility or any information contained in a final environmental document previously prepared by the NRC staff that relates to the same production or utilization facility. Documents that may be referenced include, but are not limited to, the final environmental impact statement; supplements to the final environmental impact statement, including supplements prepared at the license renewal stage; environmental assessments and records of decisions prepared in connection with the construction permit, the operating license, and any license amendment for that facility.

(b) *Operating license stage.* Each applicant for a license to operate a production or utilization facility covered by § 51.20 shall submit with its application the number of copies, as specified in § 51.55, of a separate document, entitled "Supplement to Applicant's Environmental Report—Operating License Stage," which will update "Applicant's Environmental Report—Construction Permit Stage." Unless otherwise required by the Commission, the applicant for an operating license for a nuclear power plant shall submit this report only in connection with the first licensing action authorizing full-power operation. In this report, the applicant shall discuss the same matters described in §§ 51.45, 51.51, and 51.52, but only to the extent that they differ from those discussed or reflect new information in addition to that discussed in the final environmental impact statement prepared by the Commission in connection with the construction permit. Unless otherwise required by the Commission, no discussion of need for power or alternative energy sources or alternative sites for the facility or of any aspect of the storage of spent fuel for the facility within the scope of the generic determination in § 51.23(a) and in accordance with § 51.23(b) is required in this report.

(c) *Operating license renewal stage.* (1) Each applicant for renewal of a license to operate a nuclear power plant under part 54 of this chapter shall submit with its application the number of copies, as specified in § 51.55, of a separate document, entitled "Supplement to Applicant's Environmental Report—Operating License Renewal Stage."

(2) The supplemental report must contain a description of the proposed action, including the applicant's plans to modify the facility or its administrative control procedures as described in accordance with § 54.21(e) of this chapter. The report must describe in detail the modifications directly affecting the environment or affecting plant effluents that affect the environment.

(3) For those applicants seeking an initial renewal license and holding an operating license as of June 30, 1992, or

who hold an operating license for Bellefonte Unit 1 or 2, Comanche Peak Unit 2, or Watts Bar Unit 1 or 2, the scope of issues to be addressed in the supplemental report will be limited to the following:

(i) Unless otherwise required by the Commission, no discussion of license renewal issues identified as Category 1 issues in appendix B of subpart A of this part is required in the supplemental report.

(ii) For those issues identified as Category 2 in appendix B of subpart A of this part, the supplemental report must contain a demonstration that:

(A) The nuclear power plant uses only cooling towers for primary condenser cooling or that the license renewal applicant holds current Clean Water Act 316(b) determinations and if necessary a 316(a) variance in accordance with 40 CFR part 125, or equivalent State permits. If no such demonstration can be made, an assessment of the impact of the individual nuclear power plant license renewal on fish and shellfish resources resulting from heat shock and impingement and entrainment must be provided.

(B) The nuclear power plant is not located at an inland site or does not have cooling ponds. If no such demonstration can be made, an assessment of the impact of the individual nuclear power plant license renewal on groundwater quality must be provided.

(C) The nuclear power plant does not use Ranney wells and either does not pump 100 or more gallons per minute of groundwater or does not have private wells located within the cones of depression of the nuclear power plant wells. If no such demonstration can be made, an assessment of the impact of the individual nuclear power plant license renewal on groundwater-use conflicts must be provided.

(D) Construction activities that are related to license renewal that involve additional onsite land use will not affect important plant and animal habitats. If no such demonstration can be made, an assessment of the impact of the individual plant license renewal on important plant and animal habitats must be provided.

(E) No major construction activities associated with the nuclear power plant license renewal will take place at the site. If no such demonstration can be made, a construction impact control program that will mitigate potential impacts on the aquatic environment from soil erosion or spills must be implemented and a description of this program must be provided.

(F) The nuclear power plant is in a medium or high population area[3] and not in an area where growth-control measures that limit housing development are in effect. If no such demonstration can be made, an assessment of the impact of the individual nuclear power plant license renewal on housing availability must be provided.

(G) The design of the transmission lines of the nuclear power plant meets the recommendations of the National Electric Safety Code for preventing electric shock from induced currents. If no such demonstration can be made, an assessment of the impact of the individual nuclear power plant license renewal on the potential electric shock hazard from the transmission lines of the plant must be provided.

(H) The nuclear power plant does not use a cooling pond, lake, or canal and does not discharge water to a small river. If no such demonstration can be made, an assessment of the impact of thermophilic organisms in the affected water on the health of recreational users must be provided.

(I) The nuclear power plant will have access to a low-level radioactive waste disposal facility through a low-level waste compact or an unaffiliated State. If no such demonstration can be made, a presentation of capability and plans for interim waste storage must be provided with an assessment of potential ecological habitat destruction caused by construction activities.

(J) The replacement of equivalent generating capacity by a coal-fired plant has no demonstrated cost advantage[4] over the individual nuclear power plant license renewal. If no such demonstration can be made, a justification for choosing the license renewal alternative must be provided. For nuclear power plants located in California, Oregon, Washington, or Arizona, applicants to renew a license must also provide an assessment of geothermal generating capacity as an alternative to license renewal in addition to the cost demonstration results.

(iii) For those issues identified in Category 3 in appendix B of subpart A of this part, the supplemental report must contain an assessment about the following:

(A) The impact of renewing the license for the nuclear power plant on threatened or endangered species.

(B) The impact of renewing the license for the nuclear power plant on local transportation during periods of license-renewal-related refurbishment activities.

(4) The supplemental report must contain an analysis of whether the assessment required by paragraphs (c)(3)(ii)–(iii) of this section changes the findings documented in Table B–1 of appendix B of subpart A of this part that the renewal of any operating license for up to 20 years will have accrued benefits that outweigh the economic, environmental, and social costs of license renewal.

(d) *Postoperating license stage.* Each applicant for a license amendment authorizing the decommissioning of a production or utilization facility covered by § 51.20 and each applicant for a license or license amendment to store spent fuel at a nuclear power plant after expiration of the operating license for the nuclear power plant shall submit with its application the number of copies, as specified in § 51.55, of a separate document, entitled "Supplement to Applicant's Environmental Report—Post Operating License Stage," which will update "Supplement to Applicant's Environmental Report—Operating License Stage," and "Supplement to Applicant's Environmental Report—Operating License Renewal Stage," as appropriate, to reflect any new information or significant environmental change associated with the applicant's proposed decommissioning activities or with the applicant's proposed activities with respect to the planned storage of spent fuel. Unless otherwise required by the Commission, in accordance with the generic determination in § 51.23(a) and the provisions in § 51.23(b), the applicant shall only address the environmental impact of spent fuel storage for the term of the license applied for.

4. In § 51.55, paragraph (a) is revised to read as follows:

§ 51.55 Environmental report—number of copies; distribution.

(a) Each applicant for a license to construct and operate a production or utilization facility covered by paragraph (b)(1), (b)(2), (b)(3) or (b)(4) of § 51.20,

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[3] An area is considered to have a medium or high population if any of the following conditions is satisfied:

(a) The plant is within 20 miles of a city of 25,000;

(b) The plant is within 50 miles of a city of 100,000;

(c) The population of the area within 20 miles of the plant is 75,000 or more;

(d) The population of the area within 50 miles of the plant is 1,500,000 or more; or

(e) The population of the area within 20 miles of the plant is 50,000 or more and, within 50 miles of the plant, the population is 400,000 or more.

[4] In performing the cost demonstration, costs of refurbishment, construction, fuel, operation, and maintenance must be considered.

each applicant for renewal of an operating license for a nuclear power plant, each applicant for a license amendment authorizing the decommissioning of a production or utilization facility covered by § 51.20, and each applicant for a license or license amendment to store spent fuel at a nuclear power plant after expiration of the operating license for the nuclear power plant shall submit to the Director of the Office of Nuclear Reactor Regulation or the Director of the Office of Nuclear Material Safety and Safeguards, as appropriate, 41 copies of an environmental report or any supplement to an environmental report. The applicant shall retain an additional 109 copies of the environmental report or any supplement to the environmental report for distribution to parties and Boards in the NRC proceedings; Federal, State, and local officials; and any affected Indian tribes; in accordance with written instructions issued by the Director of the Office of Nuclear Reactor Regulation or the Director of the Office Nuclear Material Safety and Safeguards, as appropriate.

* * * * *

5. Section 51.95 is revised to read as follows:

§ 51.95 Supplement to final environmental impact statement; environmental assessment.

(a) *General.* Any supplement to a final environmental impact statement or any environmental assessment prepared under the provisions of this section may incorporate by reference any information contained in a final environmental document previously prepared by the NRC staff that relates to the same production or utilization facility. Documents that may be referenced include, but are not limited to, the final environmental impact statement; supplements to the final environmental impact statement, including supplements prepared at the operating license stage; environmental assessments and records of decisions prepared in connection with the construction permit, the operating license, and any license amendment for that facility. A supplement to a final environmental impact statement will include a request for comments as provided in § 51.73.

(b) *Operating license stage.* In connection with the issuance of an operating license for a production or utilization facility, the NRC staff will prepare a supplement to the final environmental impact statement on the construction permit for that facility, which will update the prior environmental review. The supplement will only cover matters that differ from or that reflect significant new information concerning matters discussed in the final environmental impact statement. Unless otherwise determined by the Commission, a supplement on the operation of a nuclear power plant will not include a discussion of need for power or alternative energy sources or alternative sites or of any aspect of the storage of spent fuel for the nuclear power plant within the scope of the generic determination in § 51.23(a) and in accordance with § 51.23(b), and will only be prepared in connection with the first licensing action authorizing full-power operation.

(c) *Operating license renewal stage.* In connection with the renewal of an operating license for a nuclear power plant under part 54 of this chapter, the NRC staff will prepare an environmental assessment or, if warranted, a supplemental environmental impact statement. Unless otherwise determined by the Commission, the environmental assessment or the supplemental environmental impact statement will address only the matters in § 51.53(c) of this part. A supplemental environmental impact statement is required if significant impacts are found in the environmental assessment.

(d) *Postoperating license stage.* In connection with the amendment of an operating license to authorize the decommissioning of a production or utilization facility covered by § 51.20 or with the issuance, amendment, or renewal of a license to store spent fuel at a nuclear power plant after expiration of the operating license for the nuclear power plant, the NRC staff will prepare a supplemental environmental impact statement for the postoperating license stage or an environmental assessment, as appropriate, which will update the prior environmental review. Unless otherwise required by the Commission, in accordance with the generic determination in § 51.23(a) and the provisions of § 51.23(b), a supplemental environmental impact statement for the postoperating license stage or an environmental assessment, as appropriate, will address the environmental impacts of spent fuel storage only for the term of the license, license amendment, or license renewal applied for.

6. A new appendix B is added to subpart A, 10 CFR part 51 to read as follows:

Appendix B to Subpart A—Environmental Effect of Renewing the Operating License of a Nuclear Power Plant

The Commission has considered the environmental and other costs and benefits of alternatives to granting a renewed operating license for a nuclear power plant to a licensee who holds an operating license as of June 30, 1992, or who holds an operating license for Bellefonte Unit 1 or 2, Comanche Peak Unit 2, or Watts Bar Unit 1 or 2. The Commission has found that the renewal of any operating license for up to 20 years will have accrued benefits that outweigh the economic, environmental, and social costs of license renewal, subject to an evaluation of those issues identified as Category 2 (only for those nuclear power plants that are outside the envelope defined in each issue) and Category 3 in Table B–1. Table B–1 summarizes the Commission findings on the scope and magnitude of environmental and other effects of renewing the operating license for a nuclear power plant as required by section 102(2) of the National Environmental Policy Act of 1969, as amended. The Commission will periodically review the material in this appendix and update it if necessary.

TABLE B–1. SUMMARY OF FINDINGS ON NEPA ISSUES FOR LICENSE RENEWAL OF NUCLEAR POWER PLANTS

Issue	Category[1]	Findings[2]
PART I. NEED FOR GENERATING CAPACITY		
Need for generating capacity via license renewal	1	LARGE BENEFIT. License renewal of an individual nuclear power plant will be needed to meet generating capacity requirements in the service area and to avoid constructing and operating new generating facilities which would otherwise be necessary to replace the retired nuclear plant.

TABLE B-1. SUMMARY OF FINDINGS ON NEPA ISSUES FOR LICENSE RENEWAL OF NUCLEAR POWER PLANTS—Continued

Issue	Category[1]	Findings[2]
PART II. IMPACTS OF ALTERNATIVES		
Advances of alternatives to license renewal	1	NO ADVANTAGE. License renewal of an individual nuclear power plant is found to be preferable to replacement of the generating capacity with a new facility to the year 2020. License renewal is found to be preferable, both environmentally and economically[3] to either new fossil-fuel or new nuclear capacity. Wind, solar photovoltaic cells, solar thermal power, hydropower, and biomass are found to be not preferable to license renewal because of technological limitations, availability, and economics. Geothermal power could be competitive in areas where geothermal resources are readily available. These areas are in the states of California, Oregon, Washington, and Arizona.
PART III. BENEFITS/COST ASSESSMENT BENEFITS		
Direct Economic		
Generating capacity	1	LARGE BENEFIT. Will provide from 72 × 10^3 to 1270 × 10^3 net kW(e) reflecting the smallest to the largest plant.
Electric energy	1	LARGE BENEFIT. Will provide from 391 × 10^6 to 6898 × 10^6 kWh/yr reflecting the smallest to the largest plant.
Avoided costs	2[3]	SMALL TO LARGE BENEFIT. Compared to replacement of electric generating capacity with a new coal-fired plant, license renewal offers savings under a diverse set of conditions.
Indirect		
Local taxes Refurbishment	1	SMALL BENEFIT. Tax revenues will increase due to capital improvements.
Local taxes Renewal term	1	SMALL BENEFIT. The impact of tax revenues may vary from small to large depending on the total tax base of the taxing jurisdictions.
Employment Refurbishment	1	SMALL BENEFIT. Impacts on regional employment will be small to moderate depending on the total employment base of the region, and will be short-lived.
Employment Renewal term	1	SMALL BENEFIT. Impacts on regional employment will be small to large depending on the total employment base of the region.
COSTS **Direct Economic[3]**		
Refurbishment	2	MODERATE COST. Refurbishment costs will vary widely depending on specific plant requirements. In general, costs will be significantly lower relative to the capital cost of new coal-fired plants.
Fuel	2	SMALL COST. Fuel costs will be much lower than for a new coal-fired plant.
Operation and maintenance	2	LARGE COST. O&M costs will vary widely depending on specific plant performance but on the average they will be significantly more that for a new coal-fired plant.
Environmental and Socioeconomic **Surface Water Quality, Hydrology, and Use** **(for all plants)**		
Effects of refurbishment on surface-water quality	2	SMALL COST. Impacts are expected to be minor and insignificant during refurbishment if there are no major construction activities associated with the individual plant license renewal or if best management practices (BMPs) are employed to control soil erosion and spills; applicant must provide evidence of approved BMPs in license renewal application.
Effects of refurbishment on surface-water use	1	SMALL COST. Water use during refurbishment will not change or will be reduced during reactor outage.
Altered current patterns at intake and discharge structures	1	SMALL COST. Has not been found to be a problem at operating nuclear power plants and is not expected to be a problem during the license renewal term.
Altered salinity gradients	1	SMALL COST. Has not been found to be a problem at operating nuclear power plants and is not expected to be a problem during the license renewal term.
Altered thermal stratification of lakes	1	SMALL COST. Has not been found to be a problem at operating nuclear power plants and is not expected to be a problem during the license renewal term.
Temperature effects on sediment transport capacity	1	SMALL COST. Has not been found to be a problem at operating nuclear power plants and is not expected to be a problem during the license renewal term.
Scouring caused by discharged cooling water	1	SMALL COST. Has not been found to be a problem at operating nuclear power plants and is not expected to be a problem during the license renewal term.
Eutrophication	1	SMALL COST. Has not been found to be a problem at operating nuclear power plants and is not expected to be a problem during the license renewal term.
Discharge of chlorine or other biocides	1	SMALL COST. Effects are readily controlled through National Pollutant Discharge Elimination System (NPDES) permit and periodic modifications, if needed, and is not expected to be a problem during the license renewal term.
Discharge of sanitary wastes	1	SMALL COST. Effects are readily controlled through NPDES permit and periodic modifications, if needed, and is not expected to be a problem during the license renewal term.
Discharge of other chemical contaminants (e.g., metals)	1	SMALL COST. Has not been found to be a problem at operating nuclear power plants with cooling-tower-based heat dissipation systems. Has been satisfactorily mitigated at other plants. It is not expected to be a problem during the license renewal term.

TABLE B-1. SUMMARY OF FINDINGS ON NEPA ISSUES FOR LICENSE RENEWAL OF NUCLEAR POWER PLANTS—Continued

Issue	Category[1]	Findings[2]
Water-use conflicts	1	SMALL COST. Has not been found to be a problem at operating nuclear power plants with once-through heat dissipation systems. The issue has been a concern at two nuclear power plants with cooling ponds and at two plants with cooling towers, but it will be resolved with appropriate state or regional regulatory agencies outside of NRC license renewal actions. It is not expected to be a problem during the license renewal term.
Aquatic Ecology (for all plants)		
Refurbishment	1	SMALL COST. During plant shutdown and refurbishment there will be negligible effects on aquatic biota due to a reduction of entrainment and impingement of organisms or reduced release of chemicals.
Accumulation of contaminants in sediments or biota	1	SMALL COST. Has been a concern at a single nuclear power plant with a cooling pond, but has been satisfactorily mitigated. Has not been found to be a problem at operating nuclear power plants with cooling towers or once-through cooling systems, or a cooling pond, except for one plant. It was successfully mitigated at that plant. It is not expected to be a problem during the license renewal term.
Entrainment of phytoplankton and zooplankton	1	SMALL COST. Has not been found to be a problem at operating nuclear power plants and is not expected to be a problem during the license renewal term.
Cold shock	1	SMALL COST. Has been satisfactorily mitigated at operating nuclear plants with once-through cooling systems and has not endangered fish populations. Has not been found to be a problem at operating nuclear power plants with cooling towers or cooling ponds. It is not expected to be a problem during the license renewal term.
Thermal plume barrier to migrating fish	1	SMALL COST. Has not been found to be a problem at operating nuclear power plants and is not expected to be a problem during the license renewal term.
Premature emergence of aquatic insects	1	SMALL COST. Has not been found to be a problem at operating nuclear power plants and is not expected to be a problem during the license renewal term.
Gas supersaturation (gas bubble disease)	1	SMALL COST. Previously a concern at a small number of operating nuclear power plants with once-through cooling systems, but has been satisfactorily migated. Has not been found to be a problem at operating nuclear power plants with cooling towers or cooling ponds. It is not expected to be a problem during the license renewal term.
Low dissolved oxygen in the discharge	1	SMALL COST. Has been a concern at one nuclear power plant with a once-through cooling system, but issue will be monitored in the NPDES permit renewal process. Has not been found to be a problem at operating nuclear power plants with cooling towers or cooling ponds. It is not expected to be a problem during the license renewal term.
Losses from predation, parasitism, and disease among organisms exposed to sublethal stresses.	1	SMALL COST. Has not been found to be a problem at operating nuclear power plants and is not expected to be a problem during the license renewal term.
Stimulation of nuisance organisms (e.g., shipworms)	1	SMALL COST. Has been satisfactorily mitigated at the single nuclear power plant with a once-through cooling system where it was a problem. Has not been found to be a problem at operating nuclear power plants with cooling towers or cooling ponds. It is not expected to be a problem during the license renewal term.
Aquatic Ecology (for plant with once-through heat dissipation systems)		
Entrainment of fish and shellfish in early life stages	2	SMALL COST. Has not been found to be a problem at most operating plants and is not expected to be a problem during the license renewal term. Licensees of plants that do not have an approved Clean Water Act 316(b) determination or equivalent State permit at the time of license renewal application must evaluate the entrainment issue in the license renewal application.
Impingement of fish and shellfish	2	SMALL COST. Has not been found to be a problem at most operating plants and is not expected to be a problem during the license renewal term. Licensees, of plants that do not have an approved Clean Water Act 316(b) determination or equivalent State permit if required at the time of license renewal application must evaluate the impingement issue in the license renewal application.
Heat shock	2	SMALL COST. Has not been found to be a problem at most operating plants and is not expected to be a problem during the license renewal term. Licensees, of plants that do not have an approved Clean Water Act 316(b) determination or equivalent State permit, if required, at the time of license renewal application must evaluate the heat shock issue in the license renewal application.
Aquatic Ecology (for plants with cooling-tower-based heat dissipation systems)		
Entrainment of fish and shellfish in early life stages	1	SMALL COST. Has not been found to be a problem at operating nuclear power plants with this type of cooling system and is not expected to be a problem during the license renewal term.
Impingement of fish and shellfish	1	SMALL COST. Has not been found to be a problem at operating nuclear power plants with this type of cooling system and is not expected to be a problem during the license renewal term.
Heat shock	1	SMALL COST. Has not been found to be a problem at operating nuclear power plants with this type of cooling system and is not expected to be a problem during the license renewal term.

TABLE B-1. SUMMARY OF FINDINGS ON NEPA ISSUES FOR LICENSE RENEWAL OF NUCLEAR POWER PLANTS—Continued

Issue	Category[1]	Findings[2]
Aquatic Ecology (for plants with cooling pond heat dissipation systems)		
Impingement of fish	2	SMALL COST. Has not been found to be a problem at most operating plants and is not expected to be a problem during the license renewal term. Licensees of plants that do not have an approved Clean Water Act 316(b) determination or equivalent State permit at the time of license renewal application must evaluate the impingement issue in the license renewal application.
Entrainment of fish in early life stages	2	SMALL COST. Has not been found to be a problem at most operating plants and is not expected to be a problem during the license renewal term. Licensees of plants that do not have an approved Clean Water Act 316(b) determination or equivalent State permit at the time of license renewal application must evaluate the entrainment issue in the license renewal application.
Heat shock	2	SMALL COST. Has not been found to be a problem at most operating plants and is not expected to be a problem during the license renewal term. Licensees of plants that do not have an approved Clean Water act 316(a) determination or equivalent State permit, if required at the time of license renewal application must evaluate the heat shock issue in the license renewal application.
Groundwater Use and Quality, Impacts of Refurbishment		
Groundwater-use and quality	1	SMALL COST. Extensive dewatering during the original construction on some sites will not be repeated during refurbishment on any sites. Any plants wastes produced during refurbishment will be handled in the same manner as in current operating practices and is not expected to be a problem during the license renewal term.
Groundwater Use and Quality, Impacts of Operation		
Groundwater-use conflicts (potable and service water)	2	SMALL COST. Has not been found to be a problem at most operating plants and is not expected to be a problem during the license renewal term. Plants pumping 100 or more gpm *and* having private wells located within cones of depression of reactor wells are required to assess for use conflict during the license renewal term.
Groundwater-use conflicts (water pumped for dewatering)	2	SMALL COST. Has not been found to be a problem at most operating plants and is not expected to be a problem during the license renewal term. Plants pumping 100 or more gpm *and* having private wells located within cones of depression of plant wells are required to assess for use conflict during the license renewal term.
Groundwater-use conflicts (surface water used as makeup water—potentially affecting aquifer recharge).	1	SMALL COST. Water use conflicts are small and will be resolved as necessary through surface water regulatory mechanism outside of NRC license renewal process and is not expected to be a problem for any plant during the license renewal term.
Groundwater-use conflicts (Ranney wells)	2	SMALL COST. Ranney wells can result in potential groundwater depression beyond site boundary. Impacts of large groundwater withdrawal for cooling tower makeup at nuclear power plants using Ranney wells must be evaluated at the time of application for license renewal.
Groundwater-quality degradation (Ranney wells)	1	SMALL COST. Groundwater quality at river sites may be degraded by induced infiltration of poor-quality river water into an aquifer that supplies large quantities of reactor cooling water. However, the lower quality infiltrating water would not preclude the current uses of groundwater and is not expected to be a problem during the license renewal term.
Groundwater-quality degradation (saltwater intrusion)	1	SMALL COST. Nuclear power plants do not contribute significantly to saltwater intrusion.
Groundwater-quality degradation (cooling ponds)	2	SMALL COST. Sites with closed-cycle cooling ponds may degrade groundwater quality. This is not an issue for those plants located in salt marshes. However, for those plants located inland, the quality of the groundwater in the vicinity of the ponds must be shown to be adequate to allow continuation of current uses.
Terrestrial Resources		
Refurbishment impacts	2	SMALL COST. Insignificant impact if no loss of important plant and animal habitat occurs. If important plant and animal habitats are affected the potential impact will be assessed at the time of license renewal.
Cooling tower impacts on crops	1	SMALL COST. Salt drift, icing, fogging, or increased humidity associated with cooling tower operation have not been found to be a problem at operating nuclear power plants and is not expected to be a problem during the license renewal term.
Cooling tower impacts on native plants	1	SMALL COST. Salt drift, icing, fogging, or increased humidity associated with cooling tower operation have not been found to be a problem at operating nuclear power plants and is not expected to be a problem during the license renewal term.
Birds colliding with cooling towers	1	SMALL COST. Has not been found to be a problem at operating nuclear power plants and is not expected to be a problem during the license renewal term.
Cooling pond impacts on terrestrial resources	1	SMALL COST. No significant damage to vegetation has been observed as a result of fogging, icing, or increased relative humidity at nuclear reactor cooling ponds. The low levels of water contaminants in cooling ponds are not a threat to wildlife using the ponds. No significant impact is expected at any nuclear power plant during the license renewal term.
Power line right of way management (cutting and herbicide application).	1	SMALL COST. Periodic vegetation control causes cyclic changes in the density of wildlife populations dependent on the right-of-way, but long-term densities appear relatively stable. Numerous studies show neither significant positive nor negative effects of power line right-of-way on wildlife. No significant impact is expected at any nuclear power plant during the license renewal term.
Birds colliding with power lines	1	SMALL COST. Has not been found to be a problem at operating nuclear power plant and is not expected to be a problem during the license renewal term.

TABLE B-1. SUMMARY OF FINDINGS ON NEPA ISSUES FOR LICENSE RENEWAL OF NUCLEAR POWER PLANTS—Continued

Issue	Category[1]	Findings[2]
Impacts of electromagnetic fields (EMFs) on flora and fauna (plants, agricultural crops, honeybees, wildlife, livestock).	1	SMALL COST. No significant impacts of electromagnetic fields on terrestrial flora and fauna have been identified as is not expected to be a problem during the license renewal term.
Floodplains and wetland on power line right of way	1	SMALL COST. Periodic vegetation control is necessary in forested wetlands underneath power lines and can be achieved with minimal damage to the wetland. On rare occasions when heavy equipment may need to enter a wetland to repair a power line, impacts can be minimized through the use of standard practices. No significant impact is expected at any nuclear power plant during the license renewal term.
Threatened or Endangered Species (for all plants)		
Threatened or endangered species	3	Generally, reactor refurbishment and continued operation is not expected to adversely affected threatened or endangered species. However, consultation with appropriate agencies must occur to determine if, in fact, threatened or endangered species are present and if they will be adversely affected.
Air Quality		
Air quality	1	SMALL COST. Air quality impacts from reactor refurbishment associated with license renewal are expected to be small.
Land Use		
Onsite land use	1	SMALL COST. Projected on-site land use changes required during refurbishment and the renewal period would be a small fraction of any nuclear power plant site.
Human Health, Impacts of Refurbishment		
Radiation exposures to the public	1	SMALL COST. During refurbishment, the gaseous effluents would result in doses well below the natural background dose. Applicable regulatory dose limits to the public are not expected to be exceeded.
Occupational radiation exposures	1	SMALL COST. Average occupational doses from refurbishment are expected to be within the range of annual average doses experienced for pressurized-water reactors and boiling-water reactors. Upper-limit cancer and genetic risks from radiation exposure from the incremental doses from refurbishment are expected to be less than 1% of the natural cancer and genetic risks.
Human Health, Impacts of Operation During License Renewal		
Microbiological organisms (occupational health)	1	SMALL COST. Occupational health questions are expected to be resolved using industrial hygiene principles to minimize worker exposures.
Microbiological organisms (public health)	2	SMALL COST. Has not been found to be a problem at most operating plants and is not expected to be a problem during the license renewal term. At the time of license renewal of plants using cooling ponds, lakes, or canals and plants discharging to small rivers applicants will assess the impact of thermophilic organisms on the health of recreational users of affected water.
Noise	1	SMALL COST. Has not been found to be a problem at operating plants and is not expected to be a problem at any reactor during the license renewal term.
Electromagnetic fields, acute effects (electric shock)	2	SMALL COST. Has not been found to be problem at most operating plants and is not expected to be a problem during the license renewal term. If it cannot be found at the time of license renewal that the transmission lines of the plant meets the National Electric Safety Code recommendations regarding the prevention of shock from induced currents then an assessment of the potential electric shock hazard from the transmission lines of the plant must be provided.
Electromagnetic fields, chronic effects	1	SMALL COST. Biological and physical studies of 60-Hz electromagnetic fields have not found consistent evidence linking harmful effects with field exposures.
Radiation exposures to public	1	SMALL COST. Present radiation doses to the public are very small with respect to natural background radiation; and doses from refurbishment are expected to be similar in magnitudes.
Occupational radiation exposures	1	SMALL COST. Projected maximum occupational doses during the license renewal term are within the range of doses experienced and are considerably below the 5 rem exposure limit.
Socioeconomics		
Housing impacts of refurbishment	2	SMALL COST. Not expected to be a problem at any plant located in a medium or high population area and not in an area where growth control measures that limit housing development are in effect. Housing impacts of the workforce associated with refurbishment will be assessed at the time of license renewal for plants located in sparsely populated areas or in areas with growth control measures that limit housing development.
Housing impacts of license renewal term	2	SMALL COST. Not expected to be a problem at any plant located in a medium or high population area and not in an area where growth control measures that limit housing development are in effect. Housing impacts of the workforce associated with refueling/maintenance outages will be assessed at the time of license renewal for plants located in sparsely populated areas or in areas with growth control measures that limit housing development.
Public service impacts of refurbishment	1	SMALL COST. Refurbishment induced population growth will be small and will not strain local infrastructure at any plant.

TABLE B-1. SUMMARY OF FINDINGS ON NEPA ISSUES FOR LICENSE RENEWAL OF NUCLEAR POWER PLANTS—Continued

Issue	Category[1]	Findings[2]
Transportation impacts of refurbishment	3	Impacts are generally expected to be small, however, they must be assessed for each plant to consider the increase in traffic associated with the additional workers and the local road and traffic control conditions.
Public service (including transportation) impacts during license renewal term.	1	SMALL COST. No significant impacts are expected during the license renewal term.
Offsite land-use impacts of refurbishment	1	SMALL COST. Impacts will not be significant at any plant because plant-induced population growth will have little effect on land use patterns.
Offsite land-use impacts of license renewal term	1	SMALL COST. Changes in land use would be associated with population and tax revenue changes resulting from license renewal of a plant. These changes are expected to be small for all plants.
Historic resources impacts of refurbishment	1	SMALL COST. No significant impacts are expected during refurbishment.
Historic resources impacts of license renewal term (transmission lines).	1	SMALL COST. No significant impacts are expected during the license renewal term.
Historic resources impacts of license renewal term (normal operations).	1	SMALL COST. No significant impacts are expected during the license renewal term.
Aesthetic impacts of refurbishment	1	SMALL COST. No significant impacts are expected during refurbishment.
Aesthetic impacts of license renewal term	1	SMALL COST. Impacts will be small to moderate depending on the visual intrusiveness of the plant on historic and aesthetic resources in the area.
Aesthetic impacts of license renewal term (transmission lines).	1	SMALL COST. No significant impacts are expected during the license renewal term.
Uranium Fuel Cycle		
Radiological and nonradiological impacts	1	SMALL COST. Impacts on the U.S. population from radioactive gaseous and liquid releases including radon-222 and technetium-99 is small compared with the impacts of natural background radiation. Nonradiological impacts on the environment are small.
Environmental Impacts of Postulated Accidents		
Design-basis accidents	1	SMALL COST. Regulations require that consequences from design basis events remain acceptable for every plant.
Severe accidents (atmospheric releases)	1	SMALL COST. Risks from atmospheric releases is small.
Severe accidents (fallout onto open bodies of water)	1	SMALL COST. Risk from both the drinking water pathway and the aquatic food pathway are small and interdiction can further reduce both sufficiently for all plants.
Severe accidents (releases from groundwater)	1	SMALL COST. Interdiction and the low probability of base mat penetration yield a low risk to the public for all plants.
Severe accidents (economic consequences)	1	SMALL COST. Predicted costs due to postulated accidents range from $2,000/reactor-year to $374,000/reactor-year.
Severe accident mitigation design alternatives	1	SMALL COST. Low risk to the environment from severe accidents.
Solid Waste Management		
Nonradiological waste	1	SMALL COST. No changes to generating systems are anticipated for license renewal. Existing regulations will ensure proper handling and disposal at all plants.
Low-level radioactive waste storage	2	SMALL COST. Impacts will be small for plants having access to offsite disposal space. For those plants denied the use of off-site disposal space due to delayed compact plans, the potential for ecological habitat disturbance due to construction of on-site storage facilities must be evaluated.
Low-level radioactive waste disposal	2	SMALL COST. Off-site disposal facilities are planning to handle refurbishment and normal operations waste streams for an additional 20 years. If implementation of plans is delayed, plants in affected compact regions or unaffiliated states must plan for extended interim storage for an indefinite period of time and evaluate the impacts of such storage.
Mixed waste	1	SMALL COST. License renewal will not increase the small, continuing risk to human health and the environment posed by mixed waste at all plants.
Spent fuel	1	SMALL COST. A 50% greater volume of spent fuel from an additional 20 years of operation can be safely accommodated on-site with small environmental effects through dry or pool storage at all plants if a permanent repository or monitored retrievable storage facility is not available.
Transportation	1	SMALL COST. Rail and truck transport corridors can safely accommodate increased shipments of radioactive wastes associated with license renewal. Shipments would result in impacts within the scope of the Table S.4 rule and therefore would result in acceptable impact
Decommissioning		
Radiation doses	1	SMALL COST. Doses to the public are small regardless of which decommissioning method is used. Occupational doses would increase no more than 1 man-rem due to buildup of long-lived radionuclides during the license renewal term.
Waste management	1	SMALL COST. Decommissioning at the end of a 20-year license renewal period would generate no more solid wastes than at the end of the current license term. No increase in the quantities of Class C or greater than Class C wastes would be expected.
Air quality	1	SMALL COST. Air quality impacts of decommissioning are expected to be negligible whether at the end of the current operating term or at the end of the license renewal term.
Water quality	1	SMALL COST. The potential for significant water quality impacts from erosion or spills is no greater if decommissioning occurs after a 20-year license renewal period or after the original 40-year operation period, and measures are readily available to avoid such impacts.

TABLE B-1. SUMMARY OF FINDINGS ON NEPA ISSUES FOR LICENSE RENEWAL OF NUCLEAR POWER PLANTS—Continued

Issue	Category[1]	Findings[2]
Ecological resources	1	SMALL COST. Decommissioning after either the initial operating period or after a 20 year license renewal period is not expected to have any direct ecological impacts.
Socioeconomic impacts	1	SMALL COST. Decommissioning would have some short-term socioeconomic impacts. The impacts would not be increased by delaying decommissioning until the end of a 20-year relicense period, but they might be decreased by population and economic growth.

[1] The numerical entries in this column are based on the following category definitions: Category 1: A generic conclusion on the impact has been reached for all affected nuclear power plants. Category 2: A generic conclusion on the impact has been reached for affected nuclear power plants that fall within defined bounds. Category 3: A generic conclusions on the impact was not reached for any affected nuclear power plants.

[2] The findings in this column apply to Category 1 issues and Category 2 issues if a plant falls within the bounds of the generic analysis. For Part I of this table, the entry in this column indicates the level of need. For Part II of this table, the entry in this column indicates the relative advantages of alternatives to license renewal. For Part III of this table, the entries in this column are benefits or costs, as indicated by the following headings: *Small* impacts are so minor that they warrant neither detailed investigation or consideration of mitigative actions when such impacts are negative. *Moderate* impacts are likely to be clearly evident and usually warrant consideration of mitigation alternatives when such impacts are negative. *Large* impacts involve either a severe penalty or a major benefit and mitigation alternatives are always considered when such impacts are negative.

[3] The uncertainty associated with the economic cost of license renewal leads to the requirement that an applicant demonstrate for license renewal that no cost advantage exists for replacing the plant's equivalent generating capacity by a new coal-fired power plant. If no such demonstration can be made, and applicant shall justify choosing the license renewal alternative. The justification will include an assessment comparing the cost of license renewal to the cost of reasonable alternative replacement generating capacity. Costs considered must include refurbishment and construction, fuel, and operation, and maintenance.

Dated at Rockville, Maryland, this 10th day of September, 1991.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 91-22194 Filed 9-16-91; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 323

RIN 3064-AB05

Appraisals

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The FDIC is proposing to amend part 323 to exempt additional transactions from the requirements of the final appraisal rule published on August 20, 1990 (55 FR 33879). If adopted, the proposed amendment would: (1) Eliminate the requirement for regulated institutions to obtain appraisals by certified or licensed appraisers for real estate-related financial transactions having a value, as defined in the rule, of $100,000 or less; (2) permit regulated institutions to use appraisals prepared for loans insured or guaranteed by an agency of the federal government if the appraisal conforms to the requirements of the federal insurer or guarantor; and (3) add a definition of "real estate" and "real property" to clarify that the appraisal regulation does not apply to mineral rights, timber rights, or growing crops.

The FDIC is proposing these amendments to address concerns raised by state nonmember insured banks concerning the cost of complying with the appraisal requirement for certain loans which have not resulted in substantial losses to such banks. If adopted, this proposal would decrease the number of real estate-related financial transactions requiring an appraisal prepared by a certified or licensed appraiser in accordance with the FDIC's final appraisal rule, thereby reducing costs associated with those transactions.

FDIC is soliciting comments regarding all aspects of the proposed rule and is requesting that comments include specific information regarding real estate related loans held by banks where the transaction value is: $50,000 or below; $50,001 to $100,000; and above $100,000. All comments received by the FDIC will be reviewed and given appropriate consideration.

DATES: Comments must be received by November 18, 1991.

ADDRESSES: Comments should be directed to: Hoyle L. Robinson, Executive Secretary, FDIC, 550 17th Street, NW., Washington, DC 20429. Comments may be hand delivered to room F-400 on business days between 8:30 a.m. and 5 p.m. Comments may also be inspected at the same location and times. (FAX number: (202) 898-3838.)

FOR FURTHER INFORMATION CONTACT: (For information on supervisory issues) James D. Leitner, Examination Specialist, Division of Supervision, (202) 898-6790, or Robert F. Miailovich, Assistant Director, DOS, (202) 898-6918; (for information on legal issues) Walter P. Doyle, Counsel, Legal Division, (202) 898-3682; (for information on liquidation issues) N. Jack Taylor, Senior Liquidation Specialist, Division of Liquidation, (202) 898-7326; FDIC, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Discussion

Background

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") directed the FDIC, and the other financial institutions regulatory agencies,[1] to publish appraisal rules for federally related transactions within the jurisdiction of each agency. In accordance with statutory requirements, FDIC's final rule sets minimum standards for appraisals used in connection with federally related transactions and identified those federally related transactions that require a state certified appraiser and those that require either a state certified or licensed appraiser. The final rule was published August 20, 1990 (55 FR 33879).

When Services of Appraiser Required

Section 1121 of FIRREA, 12 U.S.C. 3350, defines a "federally related transaction" as a real estate-related financial transaction which, *inter alia*, requires the service of an appraiser. In the notice of proposed rulemaking published February 22, 1990 (55 FR 6266), the FDIC stated its intention not to require the services of a certified or licensed appraiser for transactions below a $15,000 threshold and asked for specific comment on "the amount and appropriateness of the *de minimis* "level" below which the services of an appraiser would not be required.

The FDIC received over 200 comments on the threshold provision, the overwhelming majority of which suggested raising the threshold. Suggested values ranged from $20,000 to $250,000, with the greatest number of commenters recommending that the threshold be raised to $100,000. However, because title XI of FIRREA expressed a preference for uniform

[1] These are: the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union Administration. In addition, the Resolution Trust Corporation has issued appraisal rules under title XI of FIRREA.

appraisal rules among the financial institutions regulatory agencies, the FDIC set the threshold level at $50,000 based on its understanding that the other agencies would adopt a $50,000 threshold amount.

Subsequent to adoption of FDIC's final rule, individual bankers and representatives of associations representing a broad range of banks have contacted the FDIC to request that the threshold level be raised. These bankers stated that they have not experienced substantial losses from real estate-related financial transactions below $100,000. Moreover, several bankers stated that they are experiencing increased costs and substantial delays in obtaining appraisals that conform to the regulation because of the increased demand for appraisers who are likely to meet state certification and licensing requirements and the complexity of the standards to be used in preparing appraisals. The experience of these bankers has indicated that the increased cost and delay associated with obtaining appraisals that conform to the rule for transactions below $100,000 outweigh any benefits that might be obtained from requiring appraisals by certified or licensed appraisers for these transactions or strict application of the standards.

The FDIC also has received a petition from the American Institute of Real Estate Appraisers, Society of Real Estate Appraisers, and the International Right of Way Association (collectively "Petitioners"), requesting that the FDIC reopen the rulemaking to amend its appraisals regulation by reducing or eliminating the provision and that the $50,000 threshold established by the final rule is too high and cannot be supported in the record. The FDIC disagrees with these assertions and has denied the petition.

The requirements of title XI of FIRREA apply to federally related transactions. See FIRREA section 1110, 12 U.S.C. 3339 (requiring the FDIC to prescribe standards for "the performance of real estate appraisals in connection with *federally related transactions*") (emphasis supplied); FIRREA section 1112, 12 U.S.C. 3341 (requiring the FDIC to prescribe "which categories of *federally related transactions* should be appraised by a state certified appraiser and which by a state licensed appraiser") (emphasis supplied). "The term 'federally related transaction' means any real estate-related financial transaction which * * * requires the services of an appraiser." FIRREA section 1121, 12 U.S.C. 3350(4). Title XI of FIRREA does not require the use of an appraiser in connection with all real estate-related financial transactions, nor does it identify any class of real estate-related financial transactions for which financial institutions must obtain the services of an appraiser.

As the supervisor of state nonmember insured banks, the FDIC is responsible for ensuring the safety and soundness of such banks and, under 12 U.S.C. 1818 and 1819, the FDIC is authorized to issue rules and regulations to carry out that responsibility. This authority permits the FDIC to determine by regulation when the services of an appraiser should be required in connection with a real estate-related financial transaction involving a state nonmember insured bank.

The FDIC believes that real estate-related financial transactions involving amounts below $100,000 have not led to substantial losses for banks and do not pose a systemic threat to the banking system. This conclusion is based on the agency's experience in examining state nonmember insured banks, the comments received in response to the proposed rule, and comments received from bankers subsequent to publication of the final rule. In light of the foregoing, the FDIC now proposes to amend § 323.3(a)(1) to increase the threshold level from $50,000 to $100,000.

The exempt transactions will be subject to federal supervision. Any real estate-related financial transaction that does not require a state certified or licensed appraiser or use of all the standards prescribed in the regulation would be supported by an appropriate estimate of value prepared in accordance with the FDIC guidelines for Real Estate Appraisal Policies and Review Procedures. Pursuant to the guidelines, an institution must obtain an adequate evaluation of real estate by a competent person (who need not be a certified or licensed appraiser) before entering into any real estate-related financial transaction below the threshold level. Compliance with guidelines, regulations, and prudent banking practices are closely reviewed during on-site supervisory examinations.

Government Guaranteed Loans

The FDIC also proposes to amend § 323.3 to add a new paragraph (a)(6) which would exempt from the appraisal requirement any transaction involving a loan insured or guaranteed by an agency of the federal government if that loan is supported by a current appraisal that meets the standards of the federal agency providing the insurance or guarantee. The FDIC is proposing this amendment in response to banks' concerns about the differences in requirements for appraisals under FDIC's rule and appraisals required by various federal agencies insuring or guaranteeing the loans.

Because of differences in appraisal requirements, it has not always been clear to bankers what appraisal rules were applicable to particular transactions. Moreover, some bankers were told that certain federal loan insurance or guarantee programs do not allow their appraisers to report any additional information in an appraisal or prepare a supplement to an appraisal which includes information beyond that required on the agency's appraisal form. Consequently, some banks believed that they were required to obtain two separate appraisals in order to comply with the requirements of the federal insurer or guarantor and the requirements of part 323.

The proposed amendment would eliminate this problem by exempting those transactions that involve federally insured or guaranteed loans from FDIC's appraisal rule if the transaction is supported by a current appraisal that conforms to the requirements of the insuring or guaranteeing agency. The FDIC believes that the appraisal standards of the Federal agencies that insure or guarantee loans protect Federal financial and public policy interests in those real estate-related financial transactions. Consequently, requiring these transactions to meet additional appraisal requirements would increase costs for state nonmember insured banks and consumers of federally insured or guaranteed loans without providing additional benefits or furthering the purposes for which title XI of FIRREA was enacted.

Definition of "Real Estate" and "Real Property"

Finally, the FDIC is proposing a technical amendment which adds a definition of *real estate* and *real property* to its appraisal rule. This change is being made in response to questions from several bankers concerning the application of the appraisal rule to interests in real property such as mineral rights, standing timber and growing crops.

Title XI of FIRREA does not define *real estate* or *real property* nor does the context in which these terms are used unambiguously suggest that the terms are intended to have different technical meanings. For instance, *real estate-related financial transaction* is defined as:

Any transaction involving (A) the sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof; (B) the refinancing of real property or interests in real property; and (C) the use of real property or interests in real property as security for a loan or investment, including mortgage-backed securities.

FIRREA section 1121(5), 12 U.S.C. 3350. Title XI of FIRREA also directs the FDIC to issue regulations requiring "that *real estate appraisals* be performed in accordance with generally accepted appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation." (Emphasis supplied.) The Appraisal Foundation's standards, the Uniform Standards of Professional Appraisal Practice ("USPAP"), have separate definitions for real property ("USPAP"), have separate definitions for real property ("the interest, benefits, and rights inherent in the ownership of real estate") and real estate ("an identified parcel or tract of land, including improvements, if any"). USPAP also recognizes that the terms are used interchangeably in some jurisdictions.

In its appraisal rule, the FDIC used *real property* and *real estate* interchangeably to mean interests in an identified parcel or tract of land and improvements. However, it is not clear whether these terms were intended to include mineral rights, timber rights, or growing crops, since valuation of such interests generally requires the services of a professional other than a real estate appraiser. The proposed amendment makes the FDIC's intent clear by defining *real property* and *real estate* for purposes of the appraisal regulation as "an identified parcel or tract of land, including easements, rights of way, undivided or future interests and similar rights in a tract of land, but excluding mineral rights, timber rights, or growing crops."

Public Comment

Public comment is solicited on all aspects of this proposed rule, and the FDIC will consider all comments received. In conjunction with the comments on the proposal to increase the threshold requirement to $100,000 and in order to assist the FDIC in evaluating the proposal, it is requested that those financial institutions choosing to submit comments on the proposal also attempt, on an optional and voluntary basis, to determine or estimate the following:

(I) The total assets of the institution;

(II) The number and total dollar amount of real estate related loans held by the institution and losses experienced within the last 12-month period for all real estate secured loans, for real estate secured loans above $100,000, for real estate secured loans of $50,001 to $100,000 and real estate secured loans of $50,000 or below; and

(III) The cost and time necessary to obtain an appraisal (A) before August 20, 10990, (B) after August 20, 1990, and (C) after regulated institutions are required to use either licensed or certified appraisers for all federally related transactions.

All commenters are advised that, pursuant to the Administrative Procedure Act, all information provided to the FDIC will be available for public inspection. If commenters choose to provide this information, it would assist the FDIC in compiling and analyzing the comments if commenters would use the following format:

All comments provided to the FDIC regarding this proposed rule will be available to the public as part of the public file of the rulemaking.

I. Total Assets of the Institution:_____

II. Summary of Real Estate Loans Held

Categories of loans secured by real estate (R.E. loans)	Number of R.E. loans	Total dollar amount held by the institution	Loss on R.E. loans within the last 12 months
All real estate secured loans			
Real estate secured loans above $100,000			
Real estate secured loans of $50,001 to $100,000			
Real estate secured loans of $50,000 or below			

III. Time Necessary to Obtain an Appraisal

Please estimate the cost and lapse of time between ordering and obtaining a written appraisal:

A. Before August 20, 1990. $____ ____days

B. After August 20, 1990. $____ ____days

C. Anticipated when appraisals must be prepared by state certified or licensed appraisers for all federally related transactions.

$____ ____days

IV. General Comments

A. *When Services of Appraiser Required.*

B. *Exemption for Government Guaranteed Loans.*

C. *Definition of "Real Property" or "Real Estate."*

D. *Other comments.*

All comments are voluntary and no individual or institution is required to provide any of the information requested above, nor need comments be provided in the format outlined above.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Board of Directors of FDIC certifies that these changes, if adopted, would not impose additional regulatory burdens that would have a significant negative economic impact on a substantial number of small entities.

Overall, the FDIC expects the changes to benefit consumers and state nonmember insured banks regardless of size by reducing costs without substantially increasing the risk of loss for the banks arising from fraudulent or inaccurate appraisals of real estate collateral. Accordingly, the changes should not substantially increase the risk of loss to the federal deposit insurance fund arising from the affected transactions.

Paperwork Reduction Act

This notice of proposed rulemaking contains a program change to a collection of information already approved by the Office of Management and Budget (OMB) and assigned the control number 3064–0103. The collection appears at § 323.4. This program change has been submitted to OMB for review and approval in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). The change would reduce the burden by raising the threshold dollar value of transactions requiring an appraisal from $50,000 to $100,000. The estimated average paperwork burden contained in this proposed rule is described in the table below.

Number of Recordkeepers: 7751.
Annual Hours per Recordkeeper: 21.1.
Total Recordkeeping Burden: 164,237.

This estimate represents the average hours that are in excess of what

institutions should prudently already be expending. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be addressed to Steven F. Hanft, Assistant Executive Secretary (Administration), room F–453, 550 17th Street, NW., Washington, DC 20429, and to the Office of Management and Budget, Paperwork Reduction Project (3064–0103), Washington, DC 20503.

List of Subjects in 12 CFR Part 323

Banks, Banking, Mortgages, Real estate appraisals, Reporting and recordkeeping requirements, Savings associations.

Authority and Issuance

For the reasons set out in the preamble, part 323 of subchapter B of chapter III of title 12 of the Code of Federal Regulations is proposed to be amended as follows:

PART 323—APPRAISALS

1. The authority citation for Part 323 is revised to read as follows:

Authority: 12 U.S.C. 1818, 1819 ("Seventh" and "Tenth") and 3331–51.

2. In § 323.2, existing paragraphs (g) through (k) are redesignated as paragraphs (h) through (l) and a new paragraph (g) is added to read as follows:

§ 323.2 Definitions.

* * * * *

(g) *Real estate* or *real property* means an identified parcel or tract of land, including easements, rights of way, undivided or future interests and similar rights in a tract of land, but excluding mineral rights, timber rights, and growing crops.

* * * * *

3. In § 323.3, paragraphs (a)(1), (a)(4)(iv) and (a)(5) are revised and a new paragraph (a)(6) is added to read as follows:

§ 323.3 Appraisal not required; transactions requiring a state certified or licensed appraiser.

(a) * * *

(1) The transaction value is $100,000 or less;

* * * * *

(4) * * *

(iv) There has been no obvious and material deterioration in market conditions or physical aspects of the property which would threaten the institution's collateral protection;

(5) A regulated institution purchases a loan or interest in a loan, pooled loans, or interests in real property, including mortgage-backed securities, provided that the appraisal prepared for each pooled loan or real property interest met the requirements of this part, if applicable; or

(6) A regulated institution makes or purchases a loan secured by real estate, which loan is insured or guaranteed by an agency of the United States government and is supported by an appraisal that conforms to the requirements of the insuring or guaranteeing agency.

* * * * *

By order of the Board of Directors.

Dated at Washington, DC, this 10th day of September, 1991.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 91–22187 Filed 9–16–91; 8:45 am]

BILLING CODE 6714–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 91–ASO–15]

Proposed Alteration of VOR Federal Airway V–157

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the description of Federal Airway V–157 located in the States of North Carolina and South Carolina. The airway's continuity is interrupted by a 130-mile gap between Kinston, NC, and Florence, SC. This action would connect those two segments by designating that 130-mile segment as V–157. Elimination of the gap as proposed would improve flight planning.

DATES: Comments must be received on or before October 31, 1991.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASO–500, Docket No. 91–ASO–15, Federal Aviation Administration, JFK International Airport Fitzgerald Federal Building, Jamaica, NY 11430.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 91–ASO–15." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter the description of VOR Federal Airway V–157 located in the States of North Carolina and South Carolina. Federal Airway V–157, which extends from Key West, FL, to Albany, NY, has a 130-mile gap between Kinston, NC, and Florence, SC. This action would improve flight planning by eliminating the gap. Section 71.123 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6G dated September 4, 1990.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. App. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. § 71.123 is amended as follows:

By removing the words "Florence, SC. From Kinston, NC," and substituting the words "Florence, SC; Fayetteville, NC; Kinston, NC,"

Issued in Washington, D.C., on September 9, 1991.

William C. Davis,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 91–22298 Filed 9–16–91; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 728]

RIN: 1512–AA07

The Oakville Viticultural Area (89F–92P)

AGENCY: Bureal of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in the State of California to be known as "Oakville." This proposal is the result of a petition from the Rutherford and Oakville Appellation Committee. The committee is composed of seven wineries and seven grape-growers within the Rutherford and Oakville areas of Napa County, California. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising allows wineries to designate the specific areas where the grapes used to make their wines were grown and enables consumers to better identify wines they purchase.

DATES: Written comments must be received by November 18, 1991.

ADDRESSES: Send written comments to: Chief, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091–0221 (Attn: Notice No. 728). Copies of the petition, the proposed regulations, the appropriate maps, and any written comments received will be available for public inspection during normal business hours at: ATF Reading Room, Office of Public Affairs and Disclosure, room 6300, 650 Massachusetts Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert White, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202-566–7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR part 4. These regulations allow the establishment of definite viticultural areas. The regulations allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements. On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added a new part 9 to 27 CFR, for the listing of approved American viticultural areas.

Section 4.25a(e)(1), title 27 CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features.

Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on the features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. map with the boundaries prominently marked.

Petition

ATF has received a petition from the Rutherford and Oakville Appellation Committee proposing to establish a new viticultural area in Napa County California, to be known as "Oakville." The appellation committee is composed of seven wineries and seven grape-growers from within the Oakville and Rutherford areas of Napa County. The proposed Oakville viticultural area is located in the south-central portion of the Napa Valley approximately 10 miles northwest of the city of Napa. There are approximately 13 bonded wineries located with the Oakville area. The area contains about 5,760 total acres, most of which are densely planted to vineyards.

The petition provides the following information as evidence that the proposed area meets the regulatory requirements discussed above.

Viticultural Area Name

The name Oakville has been associated with the area between Yountville and Rutherford in the Napa Valley for over 100 years. From the mid-nineteenth through the early twentieth centuries, Oakville moved from an unnamed region with an unknown reputation to become a settled and integral part of Napa county and of the Napa Valley wine industry. Wine writers as early as the 1880s wrote highly of wine from H.W. Crabb's To-Kalon vineyards in Oakville.

Mr. Crabb's extensive landholdings, business and influence in the region south of Rutherford contributed to the establishment of the village of Oakville. While little is known about the man H.W. Crabb, much is written of his grape-growing techniques and the success of his vineyards. From 1850 to 1880, Oakville steadily increased in prominence as a community center. One reason for its emergence was the establishment of the rail system from Napa to Calistoga in 1868. Geographer William Ketteringham writes, " With the completion of the (railroad) line in 1868 other settlements along the line such as Rutherford and Oakville sprang up."

The Oakville Post Office was established in 1867 and the Oakville voting precinct was established in 1902. During the 1870s and early 1880s, there was rapid expansion in the number of vineyard plantings and wine production. H.W. Crabb saw his first plantings of 1868 become the core of over 290 vineyard acres by 1880. During that year he produced over 300,000 gallons of wine or approximately 11 percent of all the wine produced in Napa Valley. Following the wine boom of the 1870's and early 1880's, Napa Valley wineries suffered a significant setback as phylloxera set in. Vineyard plantings decreased 83 percent over a ten-year period, from 18,177 acres in 1890 to 3,000 acres in 1900. This period was followed by Prohibition from 1919 to 1933. Surprisingly, planted acreage during Prohibition increased in Napa Valley to keep pace with the burgeoning demand for grapes used to make medicinal, sacramental and home wines, which remained legal. After Prohibition, planted acreage in Napa County remained at around 10,000 acres through the 1960s. Not until the wine renaissance of the 1970s was the acreage total of 1890 surpassed.

The name Oakville has a long history of use by wine books and magazines to describe this prominent Napa Valley wine comunity. Some examples of these publications include The Connoisseurs' Handbook of California Wines by Charles E. Olken, Earl G. Singer and Norman S. Roby, third edition, revised, 1984; The Wine Spectator magazine, "The Rutherford Bench" by James Laube, July 15, 1987; the Friends of Wine magazine, "Napa Winery Profiles: the quest for Site", May 1984, and "Back to the Vineyards" by Bob Thompson, May, 1985; and the Modern Encyclopedia of Wine, by Hugh Johnson, second edition, revised and updated, 1987.

Historical/Current Evidence of Boundaries

Because the village of Oakville is not an incorporated township, there are no municipal boundaries on which to rely in delimiting this area. Consequently, the petitioners to a great extent utilized commercial and public sector uses of the community name in establishing the boundaries of the proposed Oakville viticultural area. The Oakville Crossroads and the Oakville Post Office are the most notable examples of the name's use within the area.

Postal and telephone service areas are less relevant in terms of precise boundaries for the area but do attest to consumer recognition of Oakville as a distinct and separate community.

Also, various wine press accounts have helped to define what is considered to be the Oakville area. One such account from the Connoisseurs' Handbook of California Wines includes the following entry:

> Oakville (Napa). Situated in the southern end of Napa Valley, halfway between Yountville and Rutherford, this way station is the home of several wineries (foremost among them the Robert Mondavi Winery) and adjoins some of the Napa Valley's best Cabernet growing turf. The superb Martha's Vineyard produced by Heitz Cellars and a substantial portion of the Robert Mondavi Cabernet vineyards are in Oakville, along the western edge of the valley floor. Other wineries in the area are Villa Mr. Eden and an Inglenook production and bottling plant.

Of the approximately 13 bonded wineries located in the proposed area, all but two have Oakville addresses. The only exceptions are one winery east of the Silverado Trail which uses a Napa address and one winery just south of the village of Oakville which uses a Rutherford address, due to its affiliation with a winery in the Rutherford area. The Winery using the Napa address appears to do so because they receive their mail directly from the Napa post office rather than maintaining a post office box in Oakville. These bonded winery addresses (with the exceptions noted) generally substantiate the boundaries proposed in the petition.

Geographical Features

Napa Valley can be divided into a group of distinct topographical areas: the lowland Napa River valley between the mayacamas and Vaca Ranges; the mountains themselves; and the intermontane, eastern portions of the county beyond the watershed of the Napa River. The elevational differences and relief between these areas are pronounced and influence all aspects of the region's physical geography (climate, geomorphology, hydrology, soils and vegetation).

The floor of the Napa Valley is 25 miles in length south to north and between one and four miles wide. Traversing the entire length of the valley is the Napa River, which commences north of Calistoga and drains into San Pablo Bay. Along its course through the valley, the river elevation drops from around 380 feet near the city of Calistoga to around 20 feet near the city of Napa. The gently sloping valley floor, however, is interrupted by numerous bedrock outcrops which form isolated hills. The Yountville hills are the highest of these "bedrock islands" and have influenced the geographic evolution of the Oakville area. In other places, the valley floor features broad alluvial fans extending toward the center of the valley from mountain streams which serve as tributaries to the Napa River.

Two fundamental geographic distinctions within Napa Valley are particularly relevant to the delimitation of the proposed Oakville viticultural area: On the east-west axis, mountain versus valley floor, delineating the valley floor viticultural environments; and on the north-south axis, climatic differences as the result of a decreasing incursion of maritime air into the valley.

These distinctions can be integrated with the community identity of Oakville (and the other communities of Napa Valley) to provide consumers with meaningful and distinctive reference points concerning the viticulture of Napa Valley. From the perspective of a wine consumer, such basic geographic distinctions offer a useful introduction to the complexity of viticulture in Napa Valley.

Climate

The major climatic difference between the watershed area of Napa Valley and the outlying valleys is the maritime nature of the former. Whereas the valley as defined by the watershed area is classified as a coastal valley, the outlying valleys are considered interior

or inland valleys, representing a different climatic type. This is well evidenced by the vegetation, the distribution of which is primarily controlled by climate. Moderate to high elevations in the interior valleys are covered by chamise chaparral and other plant communities tolerant of summer drought and heat. At these same elevations in the Napa Valley river drainage, mixed forests of douglas fir, oak, madrone and coastal redwood dominate. Bedrock geology and soils act as secondary influences controlling these vegetation distributions.

Higher elevation and mountainous regions within Napa Valley experience shorter growing seasons (though they may extend longer into early autumn), fewer degree days, lower daily maximum temperatures during the growing season, less fog, increased solar radiation and increased precipitation. These conditions affect the time of wine grape harvest. In the mountainous areas, desirable acid-sugar levels often are reached much after the harvest on the valley floor. In some mountain settings, with small intermontane basins, local cold air drainage may result in marginal conditions for wine grape production. Along the valley floor from Napa to Calistoga, there are pronounced mesoclimatic variations which relate to the penetration of marine influences from San Pablo Bay and, to a lesser extent, to the rise in elevation as one proceeds up valley.

A mesoclimate is a subdivision of a macroclimate. California's Mediterranean climate is considered a macroclimate. Napa Valley's mesoclimates refer to modifications of this macroclimate due to altitude/elevation or distance from the nearest ocean. Because of the diminution of marine influences as one travels up valley, the northern regions of the valley are characterized by much warmer summers and significantly colder and wetter winters than in the south. That is, summer temperatures and total precipitation increase as one travels north. Summer days down valley often are cool, foggy and breezy. The fog usually dissipates early in the day, clearing first to the north and progressing southward to the bay.

Altitudinal variation also affects temperature distribution. The lower, southern troughs of the valley experience the lowest winter temperatures along the valley floor. As the elevation rises up valley, temperatures also rise, between 1.5 and 2.8 degrees Fahrenheit for each 500 feet.

As a result of these mesoclimatic trends along the valley floor, wine writers often speak of different climate regions within Napa Valley. The following excerpt from William Massee's Guide to the Wines of America is illustrative of the association of community names with mesoclimatic variations in Napa Valley.

> [In the Carneros area] there is a tempering influence from the northern round of bay, San Pablo, a receptacle for rivers—the Sacramento and San Joaquin, the Petaluma and Napa—and many creeks. Cool air currents sweep down from the mountain and in from the ocean, bringing fog. It is a cool Region One, * * *.
>
> Around Yountville, it is about one and a half—you can often see the fog line in the morning that marks the difference. Near Oakville, it is a cool Region Two, where Beaulieu grows its Johannisberg Riesling, up behind Bob Mondavi. Rutherford is a solid Region Two but it is warmer in Vineyard No. 3, to the east, because it gets the late sun. Up around Calistoga, it is Region Three.

According to the petitioners, the proposed Oakville viticultural area is cooler than the area around Rutherford to the north and warmer than the Yountville area to the south. The incursion of fog is especially more pronounced at the southern end of the Oakville area.

The proposed southern boundary of the Oakville area follows the elevation and hydrologic divide west of the Yountville Hills and the crest of Rector Canyon fan, along Rector Creek, east of the Yountville Hills. Rector Creek converges with Conn Creek and the Napa River at the southern end of the proposed Oakville viticultural area. Within this general mesoclimatic context, local relief or topoclimate is significant in determining diurnal temperature pattern within the Oakville viticultural area. Topoclimate refers to a subdivision of mesoclimates influenced by topography, which may be elevational, topographic blocking by a barrier, or a change in slope or aspect.

In sum, as opposed to some mountain settings of Napa Valley, this part of the central portion of the valley floor, proposed here as the Oakville viticultural area, offers the type of climatic conditions necessary for the production of a wide variety of wine grapes. Considerable acreage is planted to several varieties, including Cabernet Sauvignon, Chardonnay, Sauvignon Blanc, among others, throughout this region.

Geological History

Geological history is an important factor in shaping Napa Valley viticultural environments. Napa Valley is largely a synclinal (down-folded) valley of Cenozoic age. Faulting (accompanied by minor folding) throughout the valley later resulted in the formation of bedrock "islands" (outcrops) across the valley floor. These rock islands have been modified during the last million years through erosion by the Napa River, its tributaries and other erosional slope processes. Sections of the old Napa River channel are still visible here and there in the valley, including in several places within the proposed Oakville viticultural area.

In this central portion of the valley, much of the old river channel and its alluvial sediments have been buried by more recent Napa River floodplain sediments, but they principally have been covered by alluvial fans emerging from the mountain streams on the western and eastern sides of the valley. The age and size of these fan surfaces are a function of climatic change, basin lithology (mineral composition and structure of rocks), and basin size, all of which vary among the four major drainage basins in the Oakville and Rutherford areas, accounting for differences in these fan surfaces.

The northern fans (in the Rutherford area) are the larger geomorphic features, have more significantly controlled the course of the Napa River through time, and are geologically more diverse.

Soils and Hydrology

The occurrence of specific soil types can be related to topography in Napa Valley, as topography is one of the five variables that controls soil formation. The Soil Survey of Napa County, California (hereinafter Soil survey), published by the U.S. Department of Agriculture Soil Conservation Service in 1978, divides the 11 soil associations of Napa County into two general categories: lowland depositional soils, which account for four of the 11 soil associations and are found on alluvial fans, flood plains, valleys and terraces; and upland residual soils, which account for the remaining seven soil associations, and are found on bedrock and colluvially-mantled slopes. The "General Soil Map" from the Soil Survey shows the location of these upland and lowland soils. This map as well as the text of the Soil Survey show that the lowland-upland soil break occurs at around the 500-foot elevation. This same elevation line has been used to differentiate the proposed Oakville viticultural area from the mountains to the east and west.

As one proceeds down Napa Valley, Zinfandel Lane marks the widening of the valley floor, which continues until the appearance of the Yountville Hills at the southern end of Oakville. Part of the southern boundary of the proposed Oakville viticultural area is a

depositional ridge which projects perpendicularly across the valley towards the Yountville Hills. This ridge is located at the narrowest point between the Yountville Hills and the Mayacamas Range. To the north of this ridge, streams drain towards the northeast, and to the south of this ridge streams drain to the southeast. The ridge, which is at an overall elevation of around 200 feet, thus functions as a drainage divide.

Specific Climatological Information

A previously published report, prepared by the National Oceanic and Atmospheric Administration and submitted on behalf of the Napa Valley Appellation petition in 1980, established the general weather and climatic differences of Napa County. This report showed that Napa Valley can be divided into two general climatic regions (coastal and inland), and three topographical areas—the valley itself lying within the Mayacamas Range to the west and the Vaca Range to the east; the area within the mountains themselves; and the area covering the eastern portion of the county.

The elevation within Napa County increases as one progresses north up the valley. With this increase in elevation there is an increase in precipitation, ranging from 20 inches in the south to 50 inches in the north. Additionally, the coastal influence in the Napa Valley results in a relatively moderate climate in the south (warmer than the northern area of Napa Valley in the winter and cooler in the summer) and a relatively extreme climate in the north (hotter than the southern area of Napa Valley in the summer and colder in the winter).

Two sets of data have been submitted to show the difference in temperature, measured in degree-days, between the different areas in Napa Valley. The first set of data is from the Cooperative Extension, University of California, Napa Valley, and is shown below:

Location	Degree-days	Temperature relative to Rutherford in center of valley (percent)
Calistoga	3369	+7
St. Helena	3229	+2
Rutherford	3159	−0
Oakville	3124	−1
Napa	2882	−9

The second set of data was collected by the Rutherford and Oakville Appellation Committee. The weather stations used to collect this data are generally located within the center of the Napa Valley, where they are subject to similar relative humidity, wind direction and solar radiation conditions. This data is shown below and is the average reading for the 4-year period between 1985 and 1988:

Location	Degree-days	Temperature relative to Rutherford in center of valley (percent)
Calistoga	3768	+11
St. Helena	3575	+5
Rutherford	3389	−0
Oakville	3039	−10
Yountville	2695	−20
Napa	3180	−6

Rainfall

The Cooperative Extension, University of California, Napa Valley, has prepared a chart showing that rainfall generally increases as one proceeds up the Napa Valley from Napa to Calistoga. The data is shown below:

Location	Approximate yearly rainfall (inches)
Calistoga	45 to 50
St. Helena	35 to 40
Rutherford	35 to 40
Oakville	35
Yountville	30
Napa	30

Soil

The "General Soil Map" of Napa County, California, prepared by the United States Department of Agriculture (USDA) Soil Conservation Service, shows most of the Napa Valley floor as being generally the same types of soils. These soils are the Bale-Cole-Yolo series which are nearly level to gently sloping, well drained and somewhat poorly drained loams, silt loams, and clay loams on flood plains, alluvial fans, and terraces.

In addition to the Bale series, the Pleasanton soil series dominates much of the central section of the Napa Valley floor. Both of these soil series consist of deep, alluvial soils.

According to Associate Professor Deborah L. Elliott-Fisk, Department of Geography, University of California, Davis the high frequency of clasts from Sonoma Volcanics in the Oakville fan soils unifies the proposed Oakville viticultural area and distinguishes it from Rutherford. The contribution of small percentages of metamorphic clasts (such as serpentine and chert) on the Rutherford fan soils contributes to minor soil differences between the proposed Rutherford viticultural area and Oakville. The composition of these types of minerals and rocks tends to raise the soil pH slightly in the Rutherford area and alters soil texture and plant nutrition.

Proposed Rutherford Viticultural Area

In today's issue of the Federal Register, ATF is also publishing a notice of proposed rulemaking on the proposed Rutherford viticultural area. This proposed area is in Napa Valley adjacent to the proposed Oakville viticultural area. All interested parties should review this notice and decide if they wish to comment.

Petitions for Oakville Bench and Rutherford Bench Viticultural Areas

The petitions for the Oakville Bench and Rutherford Bench viticultural areas were submitted to ATF by the petitioners at the same time as the Oakville and Rutherford petitions. These additional, smaller areas would each be wholly contained within the respective, larger Oakville and Rutherford areas. ATF is currently analyzing the data submitted with these two petitions. In addition, we are reviewing various letters submitted to us from persons in the area who oppose the Oakville Bench and Rutherford Bench petitions. We will be glad to review any information which is submitted to us concerning the two "Bench" petitions. If such information is received in time, we will take it into consideration before deciding whether to issue a notice of proposed rulemaking. If a notice of proposed rulemaking is published, all interested parties will have an opportunity to submit comments during the comment period.

Proposed Boundary

The boundary of the proposed Oakville viticultural area may be found on two United States Geological Survey maps with a scale of 1:24,000. The boundary is described in proposed § 9.134.

Executive Order 12291

It has been determined that this proposed regulation is not a major regulation as defined in Executive Order 12291 and a regulatory impact analysis is not required because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have 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.

Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required because the proposal, if promulgated as a final rule, is not expected (1) to have secondary, or incidental effects on a substantial number of small entities; or (2) to impose, or otherwise cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Public Law 96–511, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this notice of proposed rulemaking because no requirement to collect information is proposed.

Public Participation

ATF requests comments from all interested parties. Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

ATF will not recognize any comment as confidential. Comments may be disclosed to the public. Any material which a commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure. During the comment period, any person may request an opportunity to present oral testimony at a public hearing. However, the Director reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

Drafting Information

The principal author of this document is Robert White, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, and Wine.

Issuance

Title 27, Code of Federal Regulations, part 9, American Viticultural Areas is proposed to be amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. The Table of Contents in subpart C is amended to add § 9.134 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.134 Oakville.

Par. 3. Subpart C is amended by adding § 9.134 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.134 Oakville.

(a) *Name.* The name of the viticultural area described in this section is "Oakville."

(b) *Approved maps.* The appropriate maps for determining the boundary of the Oakville viticultural area are two U.S.G.S. 7.5 minute series topographical maps of the 1:24,000 scale:

(1) "Yountville Quadrangle, California," edition of 1951, photorevised 1968.

(2) "Rutherford Quadrangle, California," edition of 1951, photorevised 1968, photoinspected 1973.

(c) *Boundary.* The Oakville viticultural area is located in Napa County in the State of California. The boundary is as follows:

(1) Beginning on the Yountville quadrangle map at the point where the county road known as the Silverado Trail intersects Skellenger Lane, just outside the southwest corner of Section 12, Township 7 North (T.7 N.), Range 5 West (R.5 W.), the boundary proceeds southwest in a straight line approximately 1.7 miles along Skellenger Lane, past its intersection with Conn Creek Road, to the point of intersection with the main channel of the Napa River (on the Rutherford quadrangle map);

(2) Then south along the center of the river bed approximately .4 miles to the point where an unnamed stream drains into the Napa River from the west;

(3) Then along the unnamed stream in a generally northwesterly direction past its intersection with State Highway 29 and then paralleling an unnamed road which enters State Highway 29 from the west;

(4) Then, at the point at which the unnamed road ends, the boundary proceeds in a straight line along a drainage channel (not shown on the map) a total of 4,035 feet from State Highway 29;

(5) Then south (S40° 31′ 42″E) and continue to follow the drainage channel 510 feet around Assessor's Parcel Number 27–01–14 (not shown on the map), then southwest in a straight line in a parallel direction to the boundary previously described in paragraph (c)(4) of this section to the 500-foot contour line of the Mayacamas Range in the southwestern corner of Section 21, T.7 N., R.5 W;

(6) Then proceeding along the 500-foot contour line in a generally southeasterly direction through Sections 28, 29, 20, 29, 28, 29, 28, 33 and 34 of T.7 N., R.5 W. and Section 3 of T.6 N., R.5 W. to its intersection with the unnamed stream known locally as Hopper Creek near the middle of Section 3;

(7) Then along the unnamed stream (Hopper Creek) southeasterly and, at the fork in Section 3, northeasterly along the stream to the point where the stream intersects with the unnamed dirt road in the northwest corner of Section 2, T.6 N., R.5 W;

(8) Then proceed in a straight line to the light duty road to the immediate northeast in Section 2, then along the light duty road northeasterly to the point at which the road turns 90 degrees to the left;

(9) Then proceed along the light duty road 625 feet, then proceed northeasterly (N40° 43′ E) in a straight line 1,350 feet, along the northern property line of Assessor's Parcel Number 27–38–08 (not shown on map), to State Highway 29, then continuing in a straight line approximately .1 mile to the peak of the 320+ foot hill along the western edge of the Yountville Hills;

(10) Then proceed due east to the 300-foot contour line, then follow that contour line around the Yountville Hills to the north to the eastern edge of the Rutherford quadrangle map;

(11) Then proceed (on the Yountville quadrangle map) in a straight line in a northeasterly direction (N27° 00′ E) past the Napa River, then continue in the same direction approximately 400 feet along a fence line (not shown on the map), then continue along the fence line (which coincides with an unimproved dirt road shown on the map approximately 1,000 feet southwest of the intersection of Conn Creek with Rector Creek) in a northeasterly direction to the intersection of Conn

Creek and Rector Creek, then along Rector Creek to the northeast past the Silverado Trail to its point of entry to Rector Reservoir;

(12) Then proceed due north approximately 1,000 feet to the 500-foot contour line and along the contour line in a northwesterly direction through Sections 19, 24, 13, 18, and 13 to the intersection of the contour line with the southern border of Section 12 in T.7 N., R.5 W.;

(13) Then in a straight line in a westerly direction to the intersection of Skellenger Lane with the Silverado Trail, the point of beginning.

Signed: August 1, 1991.

Stephen E. Higgins,

Director.

Approved: August 15, 1991.

John P. Simpson,

Deputy Assistant Secretary, (Regulatory, Trade and Tariff Enforcement).

[FR Doc. 91-22311 Filed 9-16-91; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Part 9

RIN 1512-AA07

[Notice No. 729]

The Rutherford Viticultural Area (89F-90P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in the State of California to be known as "Rutherford." This proposal is the result of a petition from the Rutherford and Oakville Appellation Committee. The committee is composed of seven wineries and seven grape-growers within the Rutherford and Oakville areas of Napa County, California. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising allows wineries to designate the specific areas where the grapes used to make their wines were grown and enables consumers to better identify wines they purchase.

DATES: Written comments must be received by November 18, 1991.

ADDRESSES: Sent written comments to: Chief, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091-0221 (Attn: Notice No. 729). Copies of the petition, the proposed regulations, the appropriate maps, and any written comments received will be available for public inspection during normal business hours at: ATF Reading Room, Office of Public Affairs and Disclosure, room 6300, 650 Massachusetts Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert White, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR part 4. These regulations allow the establishment of definite viticultural areas. The regulations allow the name of an approved viticultural area to be used as an appellation of origin on wine lables and in wine advertisements. On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new part 9 to 27 CFR, for the listing of approved American viticultural areas.

Section 4.25a(e)(1), title 27, CFR, defines an American viticultural area as a delimited graph-growing region distinguished by geographic features.

Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a graph-growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c)Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on the features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. map with the boundaries prominently marked.

Petition

ATF has received a petition from the Rutherford and Oakville Appellation Committee proposing to establish a new viticultural area in Napa County, California, to be known as "Rutherford." The appellation committee is composed of seven wineries and seven grape-growers from within the Oakville and Rutherford areas of Napa County. The proposed Rutherford viticultural area is located in the central portion of the Napa Valley approximately 12 miles northwest of the city of Napa. There are approximately 31 bonded wineries located within the Rutherford area. The area contains about 6,650 total acres, most of which are densely planted to vineyards. The petition provides the following information as evidence that the proposed area meets the regulatory requirements discussed above.

Viticultural Area Name

The name Rutherford has been associated with the area between St. Helena and Oakville in the Napa Valley for over 100 years. From the mid-nineteenth through the early twentieth centuries, Rutherford moved from an unnamed region with an unknown reputation to become a settled and integral part of Napa County and of the Napa Valley wine industry. Wine writers as early as the 1880s wrote highly of wines from the Rutherford area, including those of Gustave Niebaum, founder of Inglenook Winery. In 1838 George Yount arrived in the area now called Yountville and planted his first grapes in the 1850s. His vineyard is reported to be the first planted Napa County. In 1864, Yount gave 1,040 acres of land to his granddaughter, Elizabeth (Yount) Rutherford and her husband Thomas. According to historian John Wichels, "The settlement surrounding this ranch was thereafter known as Rutherford." The southern border of the ranch runs from Silverado Trail to the Napa River along a straight line which incorporates what is now Skellenger Lane. That lane and the Rutherfords' southern property line is used to define part of the southern border of the proposed Rutherford viticultural area.

From 1850 to 1880, Rutherford steadily increased in prominence as a community center. One reason for its emergence was the establishment of the rail system from Napa to Calistoga in 1868. Geographer William Ketteringham writes, "With the completion of the (railroad) line in 1868 other settlements along the line such as Rutherford and Oakville sprang up."

The Rutherford Post Office was established in 1871 and the Rutherford voting precinct was established in 1884. During the 1870s and early 1880s, there was rapid expansion in the number of vineyard plantings and wine production. The cellars of E.B. Smith and Charles

Krug (which eventually became those of Niebaum) produced 76,000 gallons.

Following the wine boom of the 1870s and early 1880s, Napa Valley wineries suffered a significant setback as plylloxera set in. Vineyard plantings decreased 83 percent over a ten-year period, from 18,177 acres in 1890 to 3,000 acres in 1900. This period was followed by Prohibition from 1919 to 1933. Surprisingly, planted acreage during Prohibition increased in Napa Valley to keep pace with the burgeoning demand for grapes used to make medicinal, sacramental and home wines, which remained legal. After Prohibition, planted acreage in Napa County remained at around 10,000 acres through the 1960s. Not until the wine renaissance of the 1970s was the acreage total of 1890 surpassed.

Although the period after Prohibition until the early 1970s was relatively stagnant in the wine sector, the community of Rutherford in particular contained to bolster its reputation for quality grapes and wine, according to the petitioners. Throughout these years, Beaulieu and Inglenook were regular award winners at the California State Fair. Inglenook owner John Daniels prided himself on the fact that all of Inglenook's grapes were estate grown on its vineyards in Rutherford, with the sole exception of Daniel's Napa Nook Ranch located south of the west Oakville area on land now owned by the John Daniel Society in Yountville.

The name "Rutherford" has a long history of use by newspapers, magazines and wine books to describe this prominent Napa Valley wine community. Some examples of these publications include The Connoisseurs' Handbook of California Wines by Charles Olken, Earl Singer and Norman Roby, third edition, revised, 1984; The Wine Spectator magazine, "The Rutherford Beach" by James Laube, July 15, 1987; Friends of Wine magazine. "Napa Winery Profiles: The Quest for Site, May 1984, Volume XXI, Number 2; and the Modern Encyclopedia of Wine by Hugh Johnson, second edition, revised and updated, 1987. Numerous newspapers throughout the country have had articles about wine which contain references to the Rutherford area.

Historical/Current Evidence of Boundaries

Because the village of Rutherford is not an incorporated township, there are no municipal boundaries on which to rely in delimiting this area. Consequently, the petitioners to a great extent utilized commercial and public sector uses of the community name in establishing the boundaries of the proposed Rutherford viticultural area. The Rutherford Crossroads and the Rutherford Post Office are the most notable examples of the name's use within the area. It is also worth noting that there are three wineries whose brand names refer directly to Rutherford—Rutherford Hill, Rutherford Vintners and Round Hill Winery's Rutherford Ranch Brand. All three wineries are located in the proposed Rutherford viticultural area. Postal and telephone service areas are less relevant in terms of precise boundaries for the area but do attest to consumer recognition of Rutherford as a distinct and separate community.

Also, various wine press accounts have helped to define what is considered to be the Rutherford area. One such account from The Connoisseurs' Handbook of California Wines includes the following entry:

> Rutherford (Napa) Small community located in south-central Napa Valley between Oakville and St. Helena in a temperate Region II climate * * *. The area is home for many important winereis—Beaulieu, Inglenook Caymus, Rutherford Hill * * *.

Of the approximately 31 bonded wineries located in the proposed area, most have Rutherford addresses. The main exceptions include approximately 6 wineries at the northern boundary which have St. Helena addresses and one winery along the Silverado Trail in Rutherford that has a Napa address. These exceptions apparently relate to the fact that these wineries have their mail delivered directly from the St. Helena or Napa post offices and do not maintain post offices boxes in Rutherford. These bonded winery addresses (with the exception noted) generally substantiate the boundaries proposed in the petition.

Geographical Features

Napa Valley can be divided into a group of distinct topographical areas: The lowland Napa River valley between the Mayacamas and Vaca Ranges; the mountains themselves; and the intermontane, eastern portions of the county beyond the watershed of the Napa River. The elevational differences and relief between these areas are pronounced and influence all aspects of the regions physical geography (climate, geomorphology, hydrology, soils and vegetation).

The floor of the Napa Valley is 25 miles in length south to north and between one and four miles wide. Traversing the entire length of the valley is the Napa River, which commences north of Calistoga and drains into San Pablo Bay. Along its course through the valley, the river elevation drops from around 380 feet near the city of Calistoga to around 20 feet near the city of Napa. The gently sloping valley floor, however, is interrupted by numerous bedrock outcrops which form isolated hills. In other places, the valley floor features broad alluvial fans extending toward the center of the valley from mountain streams which serve as tributaries to the Napa River.

Two fundamental geographic distinctions within Napa Valley are particularly relevant to the delimitation of the proposed Rutherford viticultural area: On the east-west axis, mountain versus valley floor, delineating the valley floor viticultural environments; and on the north-south axis, climatic differences as the result of a decreasing incursion of maritime air into the valley.

These distinctions can be integrated with the community identity of Rutherford (and the other communities of Napa Valley) to provide consumers with meaningful and distinctive reference points concerning the viticulture of Napa Valley. From the perspective of a wine consumer, such basic geographic distinctions offer a useful introduction to the complexity of viticulture in Napa Valley.

Climate

The major climatic difference between the watershed area of Napa Valley and the outlying valleys is the maritime nature of the former. Whereas the valley as defined by the watershed area is classified as a coastal valley, the outlying valleys are considered interior or inland valleys, representing a different climatic type. This is well evidenced by the vegetation, the distribution of which is primarily controlled by climate. Moderate to high elevations in the interior valleys are covered by chamise chaparral and other plant communities tolerant of summer drought and heat. At these same elevations in the Napa Valley river drainage, mixed forests of douglas fir, oak, madrone and coastal redwood dominate. Bedrock geology and soils act as secondary influences controlling these vegetation distributions.

Higher elevation and mountains regions within Napa Valley experience shorter growing seasons (though they may extend longer into early autumn), fewer degree days, lower daily maximum temperatures during the growing season, less fog, increased solar radiation and increased precipitation. These conditions affect the time of wine grape harvest. In the mountainous areas, desirable acid-sugar levels often are reached much after the harvest on the

valley floor. In some mountain settings, with small intermontane basins, local cold air drainage may result in marginal conditions for wine grape production. Along the valley floor from Napa to Calistoga, there are pronounced mesoclimatic variations which relate to the penetration of marine influences from San Pablo Bay and, to a lesser extent, to the rise in elevation as one proceeds up valley.

A mesoclimate is a subdivision of a macroclimate. California's Mediterranean climate is considered a macroclimate. Napa Valley's mesoclimates refer to modifications of this macroclimate due to altitude/elevation or distance from the nearest ocean.

Becaue of the diminution of marine influences as one travels up valley, the northern regions of the valley are characterized by much warmer summers and significantly colder and wetter winters than in the south. That is, summer temperatures and total precipitation increase as one travels north. Summer days down valley often are cool, foggy and breezy. The fog usually dissipates early in the day, clearing first to the north and progressing southward to the bay.

Altitudinal variation also affects temperature distribution. The lower, southern troughs of the valley experience the lowest winter temperatures along the valley floor. As the elevation rises up valley, temperatures also rise, between 1.5 and 2.8 degrees Fahrenheit for each 500 feet.

As a result of these mesoclimatic trends along the valley floor, wine writers often speak of different climate regions within Napa Valley. The following excerpt from William Massee's Guide to the Wines of America is illustrative of the association of community names with mesoclimatic variations in Napa Valley.

> (In the Carneros area) there is a tempering influence from the northern round of bay, San Pablo, a receptacle for rivers—the Sacramento and San Jaoquin, the Petaluma and napa—and many creeks. Cool air currents sweep down from the mountain and in from the ocean, bringing fog. It is a cool Region One.* * *
>
> Around Yountville, it is about one and a half—you can often see the fog line in the morning that marks the difference. Near Oakville, it is a cool Region Two, where Beaulieu grows its Johannisberg Riesling, up behind Bob Mondavi. Rutherford is a solid Region Two but it is warmer in Vineyard No. 3, to the east, because it gets the late sun. Up around Calistoga, it is Region Three.

According to the petitioners, the proposed Rutherford viticultural area is warmer than the area around Oakville to the south and cooler than the St. Helena area to the north. The incursion of fog is also less pronounced in the Rutherford area than in the Oakville area.

Within this general mesoclimatic context, local relief or topoclimate is significant in determining diurnal temperature pattern within the Rutherford viticultural area. Topoclimate refers to a subdivision of mesoclimates influenced by topography, which may be elevational, topographic blocking by a barrier, or a change in slope or aspect.

In sum, as opposed to some mountain settings of Napa Valley, this part of the central portion of the valley floor, proposed here as the Rutherford viticultural area, offers the type of climatic conditions necessary for the production of a wide variety of wine grapes. Considerable acreage is planted to several varieties, including Cabernet Sauvignon, Chardonnay, Sauvignon Blanc, among others, throughout this region.

Geological History

Geological history is an important factor in shaping Napa Valley viticultural environments. Napa Valley is largely a synclinal (down-folded) valley of Cenozoic age. Faulting (accompanied by minor folding) throughout the valley later resulted in the formation of bedrock "islands" (outcrops) across the valley floor. These rock islands have been modified during the last million years through erosion by the Napa River, its tributaries and other erosional slope processes. Sections of the old Napa River channel are still visible here and there in the valley, including in several places within the proposed Rutherford viticultural area.

In this central portion of the valley, much of the old river channel and its alluvial sediments have been buried by more recent Napa River flood plain sediments, but they principally have been covered by alluvial fans emerging from the mountain streams on the western and eastern sides of the valley. The age and size of these fan surfaces are a function of climatic change, basin lighology (mineral composition and structure of rocks), and basin size, all of which vary among the four major drainage basins in the Rutherford and Oakville areas, accounting for differences in these fan surfaces. The northern fans (in the Rutherford area) are the lager geomorphic features, have more significantly controlled the course of the Napa River through time, and are geologically more diverse.

Geomorphology, Hydrology and Soils

The occurrence of specific soil types can be related to topography in Napa Valley, as topography is one of the five variables that controls soil formation. The Soil Survey of Napa County, California (hereinafter Soil Survey), published by the U.S. Department of Agriculture Soil Conservation Service in 1978, divides the 11 soil associations of Napa County into two general categories: lowland depositional soils, which account for four of the 11 soil associations and are found on alluvial fans, flood plains, valleys and terraces; and upland residual soils, which account for the remaining seven soil associations, and are found on bedrock and colluvially-mantled slopes. The "General Soil Map" from the Soil Survey shows the location of these upland and lowland soils. This map as well as the text of the Soil Survey show that the lowland-upland soil break occurs at around the 500-foot elevation. This same elevation line has been used to differentiate the proposed Rutherford viticultural area from the mountains to the east and west.

According to the petitioners, soils and geomorphic mapping should go hand in hand, as soils usually are mapped according to geomorphic surfaces or units. Within the valley floor area of Napa Valley, there are both alluvial fans and river deposits. The petitioners state that the size and location of these fans, their (dis)similarity in terms of geologic parent material and soils, and the course of the Napa River and other drainage systems can help to establish viticultural area boundaries on the valley floor. For example, north of Rutherford is a massive fan emanating from the Sulphur Canyon drainage system in the Mayacamas Range. This fan sweeps across the valley floor in St. Helena from west to east and lies generally north of Zinfandel Lane. Pleasanton loam soils predominate. The Rutherford and Conn Creek fans south of Zinfandel Lane push against the Sulphur Canyon fan from the south. Although the point of convergence of these three fans does not lie along a straight line, Zinfandel Lane does serve to separate these areas and, according to the petitioners, provides a good northern boundary for the proposed Rutherford viticultural area. As one proceeds down Napa Valley, Zinfandel Lane also marks the widening

of the valley floor, which continues until the appearance of the Yountville Hills at the southern end of Oakville.

Specific Climatological Information

A previously published report, prepared by the National Oceanic and Atmospheric Administration and submitted on behalf of the Napa Valley Appellation petition in 1980, established the general weather and climatic differences of Napa County. This report showed that Napa Valley can be divided into two general climatic regions (coastal and inland), and three topographical areas—the valley itself lying within the Mayacamas Range to the west and the Vaca Range to the east; the area within the mountains themselves; and the area covering the eastern portion of the county.

The elevation within Napa County increases as one progresses north up the valley. With this increase in elevation there is an increase in precipitation, ranging from 20 inches in the south to 50 inches in the north. Additionally, the coastal influence in the Napa Valley results in a relatively moderate climate in the south (warmer than the northern area of Napa Valley in the winter and cooler in the summer) and a relatively extreme climate in the north (hotter than the southern area of Napa Valley in the summer and colder in the winter). Two sets of data have been submitted to show the difference in temperature, measured in degree-days, between the different areas in Napa Valley. The first set of data is from the Cooperative Extension, University of California, Napa Valley, and is shown below:

Location	Degree-days	Temperature relative to Rutherford in center of valley (percent)
Calistoga	3369	+7
St. Helena	3229	+2
Rutherford	3159	
Oakville	3124	−1
Napa	2882	−9

The second set of data was collected by the Rutherford and Oakville Appellation Committee. The weather stations used to collect this data are generally located within the center of the Napa Valley, where they are subject to similar relative humidity, wind direction and solar radiation conditions. The data is shown below and is the average reading for the 4-year period between 1985 and 1988:

Location	Degree-days	Temperature relative to Rutherford in center of valley (percent)
Calistoga	3768	+11
St. Helena	3575	+5
Rutherford	3389	
Oakville	3039	−10
Yountville	2695	−20
Napa	3180	−6

Rainfall

The Cooperative Extension, University of California, Napa Valley, has prepared a chart showing that rainfall generally increases as one proceeds up the Napa Valley from Napa to Calistoga. The data is shown below:

Location	Approximate yearly rainfall (inches)
Calistoga	45 to 50
St. Helena	35 to 40
Rutherford	35 to 40
Oakville	35
Yountville	30
Napa	30

Soil

The General Soil Map of Napa County, California, prepared by the United States Department of Agriculture (U.S.D.A.) Soil Conservation Service, shows most of the Napa Valley floor as being generally the same types of soils. These soils are the Bale-Cole-Yolo series which are nearly level to gently sloping, well drained and somewhat poorly drained loams, silt loams, and clay loams on flood plains, alluvial fans, and terraces.

In addition to the Bale series, the Pleasanton soil series dominates much of the central section of the Napa Valley floor. Both of these soil series consist of deep, alluvial soils.

According to Associate Professor Deborah L. Elliott-Fisk, Department of Geography, University of California, Davis, the contribution of small percentages of metamorphic clasts (such as sepentine and chert) on the Rutherford fan soils contributes to minor soil differences between the proposed Rutherford viticultural area and Oakville.

The composition of these types of minerals and rocks tends to raise pH slightly in the Rutherford area and alters soil texture and plant nutrition. The high frequency of clasts from Sonoma Volcanics in the Oakville fan soils unifies the proposed Oakville viticultural area and distinguishes it from Rutherford.

Proposed Oakville Viticultural Area

In today's issue of the **Federal Register**, ATF is also publishing a notice of proposed rulemaking on the proposed Oakville viticultural area. This proposed area is in Napa Valley adjacent to the proposed Rutherford viticultural area. All interested parties should review this notice and decide if they wish to comment.

Petitions for Rutherford Bench and Oakville Bench Viticultural Areas

The petitions for the Rutherford Bench and Oakville Bench viticultural areas were submitted to ATF by the petitioners at the same time as the Rutherford and Oakville petitions. These additional, smaller areas would each be wholly contained within the respective, larger Rutherford and Oakville areas. ATF is currently analyzing the data submitted with these two petitions. In addition, we are reviewing various letters submitted to us from persons in the area who oppose the Rutherford Bench and Oakville Bench petitions. We will be glad to review any information which is submitted to us concerning the two "Bench" petitions. If such information is received in time, we will take it into consideration before deciding whether to issue a notice of proposed rulemaking. If a notice of proposed rulemaking is published, all interested parties will have an opportunity to submit comments during the comment period.

Proposed Boundary

The boundary of the proposed Rutherford viticultural area may be found on two United States Geological Survey maps with a scale of 1:24,000. The boundary is described in proposed § 9.133.

Executive Order 12291

It has been determined that this proposed regulation is not a major regulation as defined in Executive Order 12291 and a regulatory impact analysis is not required because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have 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.

Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required because the proposal, if promulgated as a final rule, is not expected (1) to have secondary, or incidental effects on a substantial number of small entities; or (2) to impose, or otherwise cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Public Law 96-511, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this notice of proposed rulemaking because no requirement to collect information is proposed.

Public Participation

ATF requests comments from all interested parties. Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

ATF will not recognize any comment as confidential. Comments may be disclosed to the public. Any material which a commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure. During the comment period, any person may request an opportunity to present oral testimony at a public hearing. However, the Director reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

Drafting Information

The principal author of this document is Robert L. White, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, and Wine.

Issuance

Title 27, Code of Federal Regulations, part 9, American Viticultural Areas is proposed to be amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. The table of contents in subpart C is amended to add § 9.133 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.133 Rutherford.

Par. 3. Subpart C is amended by adding § 9.133 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.133 Rutherford

(a) *Name.* The name of the viticultural area described in this section is "Rutherford."

(b) *Approved maps.* The appropriate maps for determining the boundary of the Rutherford viticultural area are two U.S.G.S. topographical maps of the 1:24,000 scale:

(1) "Yountville Quadrangle, California," edition of 1951, photorevised 1968.

(2) "Rutherford Quadrangle, California," edition of 1951, photorevised 1968, photoinspected 1973.

(c) *Boundary.* The Rutherford viticultural area is located in Napa County in the State of California. The boundary is as follows:

(1) Beginning on the Yountville quadrangle map at the point where the county road known as the Silverado Trail intersects Skellenger Lane, just outside the southwest corner of Section 12, Township 7 North (T.7 N.), Range 5 West (R.5 W.), the boundary proceeds southwest in a straight line approximately 1.7 miles along Skellenger Lane, past its intersection with Conn Creek Road, to the point of intersection with the main channel of the Napa River (on the "Rutherford" map);

(2) Then south along the center of the river bed approximately .4 miles to the point where an unnamed stream drains into the Napa River from the west;

(3) Then along the unnamed stream in a generally northwesterly direction past its intersection with State Highway 29 and then paralleling an unnamed road which enters State Highway 29 from the west;

(4) Then, at the point at which the unnamed road ends, the boundary proceeds in a straight line along a drainage channel (not shown on the map) a total of 4,035 feet from State Highway 29;

(5) Then south (S40° 31' 42"E) and continue to follow the drainage channel 510 feet around Assessor's Parcel Number 27-01-14 (not shown on the map), then southwest in a straight line in a parallel direction to the boundary previously described in paragraph (c)(4) of this section to the 500-foot contour line of the Mayacamas Range in the southwestern corner of Section 21, T.7 N., R.5 W;

(6) Then proceeding along the 500-foot contour line in a generally northwesterly direction in T.7 N., R.5 W. through Sections 21, 20, 17, 18, 17, and 18 to the center of Section 7 where the 500-foot contour line intersects the land grant line (land grant line is marked but not identified on the map), thence in a straight line to the end of the county road (Zinfandel Avenue, known locally as Zinfandel Lane) near the 201-foot elevation marker;

(7) Then in a northeasterly direction along Zinfandel Lane approximately 2.12 miles to the intersection of that road and Silverado Trail, then continuing northeasterly in a straight line to the 380-foot contour line;

(8) Then following the 380-foot contour line southeasterly through Section 33 to the western border of Section 34, T.8 N., R.5 W., then following that section line north to the 500-foot contour line;

(9) Then following the 500-foot contour line southeasterly to the western border of Section 2, T.7 N., R.5 W., then south along that section line past Conn Creek to its intersection with the 500-foot contour line northwest of the unnamed 832-foot peak;

(10) Then continuing in a generally southeasterly direction along the 500-foot contour line through Sections 3, 2, 11 and 12 to the intersection of that contour line with the southern border of Section 12 (on Yountville map);

(11) Then proceeding in a straight line in a westerly direction to the intersection of the Silverado Trail with Skellenger Lane, the point of beginning.

Signed: August 1, 1991.

Stephen E. Higgins,

Director.

Approved: August 15, 1991.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Trade and Tariff Enforcement).

[FR Doc. 91-22312 Filed 9-16-91; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Ch. II

Bureau of Land Management

43 CFR Ch. II

Use of Metric Measurements in Oil and Gas Activities

AGENCY: Minerals Management Service and Bureau of Land Management, Interior.

ACTION: Request for information.

SUMMARY: The Minerals Management Service (MMS) and the Bureau of Land Management (BLM) are seeking information on the use of metric measurements in activities associated with drilling for and producing oil and gas from Federal and Indian oil and gas leases. Comments are particularly solicited from oil and gas producers; State and local governments, which regulate oil and gas operations or use production data; and other Federal Government agencies with interest in these areas.

DATES: Comments should be received by MMS on or before October 17, 1991. However, any comments received at any time from any interested persons will be considered to the extent practical.

ADDRESSES: Comments should be sent to Gerald R. Daniels; Minerals Management Service; Engineering and Standards Branch; MS–4700; 381 Elden Street; Herndon, VA 22070.

FOR FURTHER INFORMATION CONTACT: Gerald R. Daniels (703) 787–1554 or (FTS) 393–1554.

SUPPLEMENTARY INFORMATION: Section 5164 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418) designates the metric system of measurement as the preferred system of weights and measures for United States trade and commerce. It requires that:

> * * * each Federal agency, by a date certain and to the extent economically feasible by the end of fiscal year 1992, use the metric system of measurement in its procurements, grants, and other business-related activities, except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms, such as when foreign competitors are producing competing products in non-metric units.

This request for information is limited to business-related activities associated with production of oil and gas from both onshore and offshore leases. By far, the largest number of business transactions between industry and MMS/BLM involves reporting of production and payment of royalties thereon. In 1989, these royalties amounted to $2.2 billion from Outer Continental Shelf (OCS) leases and another $700 million from onshore leases. However, other business-related activities include standards and specifications, publications and MMS or BLM statements of general applicability and future effect designed to implement, interpret, or prescribe law or policy (regulations for the most part) or describing procedure or practice requirements.

The metric system of measurements is the International System of Units as established by the General Conference of Weights and Measures in 1960 (Le Systeme International d'Unites (SI)) as modified by the Secretary of Commerce for use in the United States (U.S.).

The inch-pound system of measurements (inch, pound, degrees Fahrenheit (F), and units derived therefrom) is the system most commonly used in the United States.

"Hard conversion" is physically changing products, procedures, or measurement practices to use metric measurements.

"Soft conversion" is changing from inch-pound units without altering the product, production process, or procedures or equipment used for measurement.

"Dual dimensions" means the use of both metric and inch-pound units. Generally, when dual units are used, the metric unit will be used in the text followed by inch-pound units in parentheses.

Considerable work has been done in preparing SI units for use in the oil and gas industry. The work done by the Federal Government in preparing SI units for general use (see 55 FR 52242 December 20, 1990) has been supplemented by work in the private sector specific to the oil and gas industry. Also, the Canadian Federal and Provincial Governments have issued standards for the use of SI units. In fact, since Canada has been using SI units exclusively for nearly 10 years, any oil and gas companies operating in Canada (or elsewhere in the world) should be prepared to use SI units as soon as the decision is made to do so.

After examination and comparison of a large number of international and Federal publications and standards, it appears that the document to be used as reference for oil and gas drilling and production business-related activities is American Petroleum Institute's (API) Publication 2564, Second Edition, December 1983, Reaffirmed August 1987. The title of the document is "Manual of Petroleum Measurement Standards, chapter 15, Guidelines for the use of the International System of Units (SI) in the Petroleum and Allied Industries." It is available from American Petroleum Institute, 1220 L Street, NW., Washington, DC 20005. The current price is $20 per copy.

General

Basic information being solicited by MMS and BLM involves whether or not SI units should be used. Referring to the statutory provision cited earlier, is it economically feasible for MMS and BLM to adopt SI units totally by the end of fiscal year 1992, i.e., by September 30, 1992? Would such use be impractical or cause substantial inefficiency? Are the people in your company or agency familiar enough with SI units to be comfortable in their day-to-day use or would considerable training be needed? If SI units are adopted for production and sales and royalty reports, should it be done concurrently as much as possible with those State government agencies which regulate oil and gas activities or which use production or valuation data in their work? How might this be accomplished?

Within the foregoing general areas of concern, more particular descriptions and questions follow which are divided into sections following the format of the Interior Metric Work Group (IMWG) Draft Metric Transition Plan. All sections of the plan are not included as this inquiry is applicable only to oil and gas leasing and production needs. Please keep in mind that MMS is responsible for rental and royalty collection on OCS, onshore Federal, and restricted Indian leases. However, MMS also leases and regulates operations on OCS leases while the Bureau of Indian Affairs issues leases on restricted Indian Lands and BLM issues leases on onshore Federal lands while regulating operations on both onshore Federal and Indian leases. Thus, there are a number of regulations promulgated by the three bureaus which, while not overlapping with regard to leasing and operations, are very similar. The rental and royalty regulations by MMS do overlap and interact with all three bureaus' leasing and operating regulations. The sections of the IMWG draft transition plan of interest in this inquiry are: (1) Regulations, Policies, and Manuals; (2) Engineering and Construction; (3) Reports and Publications; (4) Mapping and Related Data; and (5) Oil and Gas Leasing and Production.

Regulations, Policies, and Manuals

Regulations pertaining to oil and gas leasing and operations are in title 30 and title 43, Code of Federal Regulations (CFR). These regulations, which are issued under authority of a number of statutes, contain some measurement sensitive provisions. Some of those provisions are enumerated in the enabling statutes. It is unlikely that the statutes will be amended to change measurements to SI units.

Rental and royalty regulations are at 30 CFR part 200 through part 243. The regulations pertaining to coal and geothermal resources are not included in this inquiry. The largest change will be in the volume units and standard conditions for measurement. Gas would change to cubic meters at 15° Celsius (C) and 101.325 kilopascals (kPa) absolute from the current thousand cubic feet at 60°F and 14.73 or 15.025 pounds per square inch absolute. Oil would change from barrels at 60°F to cubic meters at 15°C. The use of metric tons for liquids would not be used. The use of API gravity would be discontinued and replaced with absolute density in kilograms per cubic meter at 15°C and 101.325 kPa. The heating value of gas would be expressed in kilojoules per cubic meter to replace British Thermal Units per cubic foot. Natural gas liquids would be reported in liters at 15°F and 101.325 kPa replacing gallons at 60°F. Sulphur would be reported in metric tons to replace the current long tons. Minimum royalty and rental rates now expressed in dollars per acre would change to equivalent dollars per hectare. Regulations would be proposed for change through the normal rulemaking procedure before reporting in SI units would be required. The main advantage of changing reports to SI units would be standardized volumetric units rather than having a specialized data set used only in the U.S. The main disadvantages are in the Federal and State government units which are accustomed to inch-pound units in their laws and regulations and the one-time significant cost of changing reports and computer routines to SI units. Also, considerable training efforts would be necessary at significant cost. Multinational oil and gas companies are already using SI units (except in the U.S.) so a change would probably not be a challenge. Smaller operators who work only in the U.S. would likely find the change more difficult. The MMS is very interested in any data or opinions pro or con in changing production reporting and rental and royalty units to SI.

The OCS operating regulations from 30 CFR 250.0 through 250.212 contain a number of measurement sensitive provisions which would require changes. In particular, 30 CFR 250.1, Documents incorporated by reference, includes a number of documents written in inch-pound units or derivations thereof. The MMS would not propose to amend the regulations for the sole purpose of changing measurements sensitive provisions to SI but would make such changes at the time a regulation is modified for any other purpose. Also, a "grandfather provision" would be inserted to allow continued use of existing facilities and equipment manufactured to inch-pound specifications.

Regulations at 30 CFR part 251 pertaining to geological and geophysical explorations contain only a few measurement sensitive provisions, some of which are already dual dimensioned. Therefore, no changes would be proposed until such time as other amendments are being considered.

Regulations at 30 CFR part 252 pertaining to the OCS information program do not contain measurement sensitive provisions.

Regulations at 30 CFR parts 256, 259, and 260 pertaining to OCS mineral leasing and rights-of-way management contain some measurement sensitive provisions which could affect the qualification of a person to hold OCS oil and gas leases. These provisions would be proposed for change to SI units.

Regulations at 43 CFR parts 3100 to 3140 pertaining to leasing Federal lands onshore also contain some measurement sensitive provisions which could affect the qualifications of a person to hold leases as well as rental and minimum royalty administration. These provisions would be proposed for change to SI units at the time other changes were made.

Regulations at 43 CFR part 3150 pertaining to geophysical exploration do not contain measurement sensitive provisions.

Regulations at 43 CFR parts 3160 and 3180 pertain to oil and gas operations and unitization on both onshore Federal and Indian leases. Both the regulations and operating orders issued thereunder contain measurement sensitive provisions which would be proposed for change to SI units at the time other changes were made.

The remaining parts of 30 CFR and 43 CFR are not included in this inquiry. Details concerning some of the regulatory changes are discussed further in the following sections. Again, the basic questions are: (1) Should the regulations be changed to use only SI units in measurement sensitive provisions; and (2) How might this be accomplished to provide a smooth transition by September 30, 1992?

Engineering and Construction

The MMS and BLM are not directly involved in the engineering and construction of drilling and production tools and equipment. However, both MMS and BLM develop standards and, to some extent, specifications for operating equipment to be used on the leases. Most of those requirements appear at 30 CFR part 250 and 43 CFR part 3160. In addition, MMS sponsors or conducts research on certain aspects of procedures and equipment. Many standards and recommended practices published by professional associations, industry groups, and standards organizations have been adopted by reference at 30 CFR 250.1. For the most part these documents use conventional inch-pound measurements. In some cases, they have been adopted by international standards groups or by regulatory units of foreign governments due to their sound principles and long history.

Transition to SI units of measurement in engineering and construction for oil field purposes would likely require a longer period than some of the other efforts. There is a huge infrastructure of drilling units, wells, production equipment, and transportation facilities (pipelines and pump stations) in place which is manufactured to inch-pound specifications both in the U.S. and in other countries. It is impractical, or perhaps impossible, to replace that infrastructure with hard SI dimensioned tools and equipment. It may be impractical to use soft SI units. Also, safety problems may arise if soft SI units are adopted before thorough training is completed and personnel are comfortable with the system.

Information requested under this section is: Is production and process equipment now in use in other parts of the world manufactured in hard SI specifications? Are OCS production platforms used in other parts of the world dimensioned in SI units? Are tubulars (line pipe, drill pipe, casings, and tubing) and well equipment (packers, wellheads, and valves) used in other parts of the world dimensioned in SI units? Are drilling units generally dimensioned in inch-pound or SI units? Does the capacity exist in the U.S. (or other countries) to provide the foregoing tools and equipment in both inch-pound or SI units?

Reports and Publications

The MMS and BLM prepare and issue a number of reports and publications, for example, historical data on production, operations, revenues, and leasing, environmental impact reports and statements, environmental studies, reports to the Congress, accidents and research. Most of these reports are in inch-pound units for ready comparison with reports prepared by other agencies or the private sector. A few of the reports are prepared using SI units. Some reports use both systems.

Changing historical data to SI units would be a considerable task. Using dual dimensions would essentially double the volume of tabular information. Given the provisions of the law, it appears that transition to the use of SI units should begin soon if reports and publications issued after September 30, 1992, are to use only metric units. Thus, the information MMS and BLM are seeking concerns the utility of its reports and publications. Would reports and publications be useful if they contain only SI dimensions? Since it is impractical to produce tabular information and graphs in dual dimensions, should they be converted immediately to SI units with accompanying conversion factor tables for inch-pound units? The preferred method of including dual dimensions within written text is to use SI units first followed by inch-pound units in parentheses. Is this method best or should only SI units be used in text with a conversion table supplied? Please refer to recent articles in the Journal of Petroleum Technology (JPT) published by the Society of Petroleum Engineers as examples of the latter method. However, JPT articles still use inch-pound dimensions at times, depending on the subject matter under discussion, even after years of editorial preference for using SI dimensions.

Mapping and Related Data

The MMS has spent considerable effort in developing a system of digitizing its map production. The system is nearly complete and has the capability of producing maps in either inch-pounds or SI dimensions. The MMS requested public comment (55 FR 48229 November 23, 1990) on its proposed implementation plan to use North American Datum 1983 (NAD 83) for its surveying and mapping activities to replace the existing NAD 27. The request for information on NAD conversion is not repeated here except to note that after a 10-year transition period, only SI dimensions will be used in positioning lease blocks and defining their boundaries. Also, bathymetry has been shown in meters for a number of years on MMS maps due to statutory and regulatory provisions which include SI units in their text. However, almost all other data are in inch-pound units.

Information requested here is: Should MMS and BLM begin producing maps using only SI units? Would this be useful or detrimental to map users?

Dated: August 26, 1991.

Albert Modiano,

Acting Director, Minerals Management Service.

Dated: September 4, 1991.

Cy Jamison,

Director, Bureau of Land Management.

[FR Doc. 91-22240 Filed 9-16-91; 8:45 am]

BILLING CODE 4310-MR-M

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

Indiana Permanent Regulatory Program

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

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: On June 4, 1991, the Indiana Department of Natural Resources submitted to OSM a set of proposed amendments to modify the State's regulatory program (hereinafter referred to as the Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments (Program Amendment Numbers 91-7A, 91-7B and 91-7C) consist of proposed changes to the Indiana Surface Mining Statute (IC 13-4.1) adopted by the Indiana General Assembly. The amendments are intended to revise the provisions concerning self bonding, bond pool fund, fees assessed to provide program income, requirements for hearings, and the responsibilities of the Director and the Natural Resources Commission, and to add a "no more stringent than" the Federal regulations clause.

OSM published a notice in the Federal Register July 9, 1991, announcing receipt of the amendments and inviting public comment on their adequacy (56 FR 31093). The public comment period ended August 8, 1991. Two commenters requested additional time to develop comments concerning the changes to IC 13-4.1-1-5 and indicated a desire for a public hearing at a later date. Accordingly, OSM is reopening the public comment period for the proposed changes to IC 13-4.1-1-5 (the "no more stringent than" the Federal regulations clause) contained in 1991 SEA 46 and submitted in program amendment 91-7B. This action is being taken to provide the public an opportunity to adequately consider the proposed amendment.

DATES: Written comments must be received on or before 4 p.m. on October 2, 1991; a public hearing on the proposed amendment, if requested, is scheduled for 1 p.m. on October 2, 1991; and requests to present oral testimony at the hearing must be received on or before 4 p.m. on September 27, 1991.

ADDRESSES: Written comments, requests for a hearing, and requests to testify at the hearing should be directed to Mr. Richard D. Rieke, Director, Indianapolis Field Office, at the address listed below. If a hearing is requested, it will be held at the same address.

Copies of the Indiana program, the amendment, a list of any scheduled public meetings, and all written comments received in response to this notice will be available for public review at the following locations, during normal business hours, Monday through Friday, excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Indianapolis Field Office, Minton-Capehart Federal Building, 575 North Pennsylvania Street, room 301, Indianapolis, IN 46204. Telephone: (317) 226-6166.

Indiana Department of Natural Resources, 402 West Washington Street, room 295, Indianapolis, IN 46204. Telephone: (317) 232-1547.

Each requester may receive, free of charge, one copy of the proposed amendment by contacting the OSM Indianapolis Field Office.

FOR FURTHER INFORMATION CONTACT: Mr. Richard D. Rieke, Director, Telephone (317) 226-6166; (FTS) 331-6166.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program

On July 29, 1982, the Indiana program was made effective by the conditional approval of the Secretary of the Interior. Information regarding the general background on the Indiana program including the Secretary's Findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26, 1982 Federal Register (47 FR 32071-32108). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 914.10, 914.15, and 914.16.

II. Discussion of the Proposed Amendments

By letter dated June 4, 1991, the Indiana Department of Natural Resources (IDNR) submitted to OSM pursuant to 30 CFR 732.17, proposed State program amendments for approval. The amendments (Program Amendment Numbers 91–7A, 91–7B and 91–7C) consist of proposed changes to the Indiana Surface Mining Statute (IC 13–4.1) adopted by the Indiana General Assembly. The amendments are intended to revise the provisions concerning self bonding, bond pool fund, fees assessed to provide program income, requirements for hearings, and the responsibilities of the Director and the Natural Resources Commission, and to add a "no more stringent than" the Federal regulations clause. The proposed "no more stringent than" provisions reads as follows.

IC 13–4.1–1–5

Neither the director nor the commission may enforce the following: (1) A rule adopted under this article that is more stringent than corresponding provisions under the Federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201–1328); (2) a condition of a permit that was imposed under this article or under a rule that is unenforceable under this section.

OSM announced receipt of the amendments and initiated a public comment period on July 9, 1991 (56 FR 31093). The public comment period ended on August 8, 1991. A public hearing scheduled for August 5, 1991, was not held because no one expressed a desire by July 24, 1991, to present testimony.

Following the closing of the public comment period, two commenters requested that the comment period be extended and that a public hearing be provided. The commenters have requested the comment period be reopened because they did not receive notice of the proposed amendment in time to respond before the close of the initial comment period.

III. Public Comment Procedures

In accordance with provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the proposed amendment to IC 13–4.1–1–5 satisfies the requirements of 30 CFR 732.15 for the approval of State program amendments. If the amendment is deemed adequate, it will become part of the Indiana program.

Written Comments

Written comments should be specific, pertain only to the proposed change to IC 13–4.1–1–5, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the Indianapolis Field office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by the close of business on September 27, 1991. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons who desire to comment have been heard.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 6, 1991.

Carl C. Close,

Assistant Director, Eastern Support Center.

[FR Doc. 91–22283 Filed 9–16–91; 8:45 am]

BILLING CODE 4310–05–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7017]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Modified Determinations of base (100-year) flood elevations previously published at 56 FR 14672 on April 11, 1991. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the Township of Lower Southampton, Bucks County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: William R. Locke, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–2754.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Modified Determinations of base (100-year) flood elevations for selected locations in the Township of Lower Southampton, Bucks County, Pennsylvania, previously published at 56 FR 14672 on April 11, 1991, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title —XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR part 67.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

On page 14673, in the April 11, 1991 issue of the **Federal Register**, the entry for Mill Creek under Lower Southampton (Township), Bucks County, in Pennsylvania is corrected to read as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in Feet (NGVD)	
	Existing	Modified
• • •	• •	•
Mill Creek:		
Approximately 0.47 mile upstream of Bristol Road	*97	*98
• • •	• •	•

Issued September 10, 1991.

C. M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 91–22329 Filed 9–16–91; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 67

[Docket No. FEMA–7010]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of

base (100-year) flood elevations previously published at 55 FR 1593 on January 16, 1991. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the unincorporated Areas of Tom Green Country, Texas.

FOR FURTHER INFORMATION CONTACT: William R. Locke, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–2754.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Unincorporated Areas of Tom Green County, Texas, previously published at 55 FR 1593 on January 16, 1991, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR part 67.

List of Subjects in 44 CFR Part 67

Flood Insurance, Floodplains.

On page 1601, in the January 16, 1991 issue of the **Federal Register**, the entries for South Concho River, Pecan Creek, Lake Creek, and West Fork Lake Creek under Tom Green County (Unincorporated Areas) in Texas, are corrected to read as follows:

Source of Flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
South Concho River:	
Approximately 0.44 mile downstream of U.S. routes 87 & 277	*1,823
At Twin Buttes Reservoir	*1,905
Pecan Creek:	
At confluence with south Concho River	*1,892
Approximately 0.72 mile upstream of Frontage Road	*1,960
Lake Creek:	
At downstream corporate limits (Cauley Lane)	*1,916
Approximately 2.8 miles upstream of Grape Creek Road	*2,051
West Fork Lake Creek:	
At confluence with Lake Creek	*1,923
Approximately 0.73 mile upstream of Grape Creek Road	*1,995
• • • • •	

Issued: September 4, 1991.

C.M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 91–22330 Filed 9–16–91; 8:45 am]

BILLING CODE 4718–03–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB56

Endangered and Threatened Wildlife and Plants; Proposed Rule to List the Coastal California Gnatcatcher as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to list the nominate subspecies of the California gnatcatcher (*Polioptila californica californica*) as an endangered species throughout its historic range in southern California and northwestern Baja California, Mexico pursuant to the Endangered Species Act of 1973, as amended (Act). Critical habitat is not being proposed. This small, insectivorous songbird is an obligate resident of several distinctive subassociations of the coastal sage scrub plant community in southern California and northwestern Baja California, Mexico. This subspecies is threatened by habitat loss and fragmentation occurring in conjunction with urban and agricultural development. Additional data and information, which may assist the Service in making a final decision on this proposed action, is solicited on the status of this species.

DATES: Comments from all interested parties must be received by March 16, 1992. Public hearing requests must be received by November 1, 1991.

ADDRESSES: Comments and materials concerning this proposal should be submitted to the Field Supervisor, U.S. Fish and Wildlife Service, Southern California Field Station, 24000 Avila Road, Laguna Niguel, California 92656. Comments and materials received will be available for public inspection by appointment during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Jeffrey Opdycke, Field Supervisor, at the address listed above (Telephone: 714/643–4270 or FTS 796–4270).

SUPPLEMENTARY INFORMATION:

Background

The California gnatcatcher is a small (length 11 cm; weight 6 g), long-tailed member of the thrush family Muscicapidae. Its plumage color is dark blue-gray above and grayish-white below. The tail is mostly black above and below. The male has a distinctive black cap which is absent during the winter. Both sexes have distinctive white eye-ring. Vocalizations include a call consisting of rising and falling series of three kittenlike mew notes (National Geographic Society 1983).

Although originally described as a distinct species by Brewster (1881) based on specimens collected by F. Stephens in 1878, the California gnatcatcher was only recently elevated to species status. Based on rigorous examination of vocalization, morphological, and phenotypic data, Atwood (1988) concluded that *Polioptila californica* was specifically distinct from *P. melanura*, the black-tailed gnatcatcher. This finding was subsequently adopted by the American Ornithologists' Union Committee on Classification and Nomenclature (American Ornithologists Union 1989). A comprehensive overview of the nomenclatural history of the California gnatcatcher is provided by Atwood (1988, 1990).

The taxon proposed for listing, *Polioptila californica californica* (hereafter referred to as the coastal California gnatcatcher), is restricted to coastal southern California and northwestern Baja California, Mexico, from Los Angeles County (formerly Ventura and San Bernardino Counties) south to El Rosario at about 30° north latitude. Two other subspecies of the California gnatcatcher (*P. c. pontilis* and *P. c. margaritae*) occur in the central and southern portions of the Baja peninsula, respectively (American Ornithologists' Union 1957, Atwood 1988, 1990).

A gross examination of the historic range of the coastal California gnatcatcher indicates that about 41 percent of its latitudinal distribution is within the United States (Atwood 1990). A more detailed analysis, based on elevational limits associated with gnatcatcher locality records, reveals that a significant portion (60 to 65 percent) of the coastal California gnatcatcher's historic range was located in southern California rather than Baja California (Atwood 1990).

The coastal California gnatcatcher is an obligate resident of the coastal sage scrub plant community. The southern limit of its range coincides with the distributional boundary of this distinctive vegetation type. Coastal sage scrub vegetation is composed of relatively low-growing, drought-deciduous, and succulent plant species. Characteristic plant species of this community include coastal sagebrush (*Artemisia californica*), various species

of sage (*Salvia spp.*), California buckwheat (*Eriogonum fasciculatum*), lemonadeberry (*Rhus integrifolia*), California encelia (*Encelia californica*), prickly pear and cholla (*Opuntia spp.*), and various species of *Haplopappus* (Munz 1974, Kirkpatrick and Hutchison 1977, Mooney 1988, O'Leary 1990). The coastal California gnatcatcher exhibits a strong affinity to coastal sage scrub vegetation dominated by coastal sagebrush (Atwood 1980, 1990; Mock and Jones 1990).

A comprehensive overview of the life history and ecology of the coastal California gnatcatcher is provided by Atwood (1990) and is the basis for much of the discussion presented below. The coastal California gnatcatcher is non-migratory and defends breeding territories ranging in size from 2–14 acres. Mock and Jones (1990) reported home ranges varying in size from 13–39 acres for this species. The breeding season of the coastal California gnatcatcher extends from late February through July with the peak of nest initiations occurring from mid-March through mid-May. Nests are composed of grasses, bark strips, small leaves, spider webs, down, and other materials and are often placed in coastal sagebrush about three feet above the ground. Nests are constructed over a 4–10 day period. Clutch size averages four eggs. The incubation and nestling periods encompass about 14 days and 16 days, respectively. Juveniles are depended upon, or remain closely associated with, their parents for up to several months following departure from the nest. Both sexes participate in all phases of the nesting cycle. Although the coastal California gnatcatcher may occasionally produce two broods in one nesting season, the frequency of this behavior is not known.

Coastal California gnatcatchers were considered locally common in the mid-1940's although a decline in the extent of its habitat was noted (Grinnell and Miller 1944). By the 1960's, this species had apparently experienced a significant population decline in the United States that has been attributed to widespread destruction of its habitat. Pyle and Small (1961) reported that "the California subspecies is very rare, and lack of recent records of this race compared with older records may indicate a drastic reduction in population." McCaskie and Pugh (1964) commented that the coastal California gnatcatcher "had been driven from most of its former range along the coast of the region." Atwood (1980) estimated that no more than 1,000 to 1,500 pairs remain in the United States. He also noted that remnant portions of its habitat were highly fragmented with nearly all being bordered on at least one side by rapidly expanding urban centers. Subsequent reviews of coastal California gnatcatcher status by Garrett and Dunn (1981) and Unitt (1984) paralleled the findings of Atwood (1980).

Atwood (1990) estimated that approximately 1,819 to 2,262 pairs of coastal California gnatcatchers presently occur in southern California. Of these, 54–67 pairs are estimated to occur in Los Angeles County, 240–298 in Orange County, 755–939 in Riverside County, and 770–958 pairs are estimated to occur in San Diego County. However, Atwood (1990) cautioned that "the true population size of [coastal] California gnatcatchers in the United States is almost certainly less than 2,000 pairs, and possibly less than 1,200 pairs." This conclusion was made on the basis of very liberal assumptions (associated with population densities and extent of habitat) use by Atwood to calculate the estimate of gnatcatcher population size. No population estimate is available for the Mexican portion of the gnatcatcher's range.

Most subpopulations of the coastal California gnatcatcher in the U.S. occur on private lands. A recent analysis of coastal sage scrub ownership in San Diego County (excluding Camp Pendleton Marine Corps Base) found that 78 percent was privately owned (P. Fromer, Regional Environmental Consultants, San Diego, CA, pers. comm.). Major private landholdings containing known or suspected populations of the coastal California gnatcatcher include properties owned by the Irvine Company, Rancho Santa Margarita Company, and the Mission Viejo Company in Orange County, the Baldwin Company, Fieldstone, Home Capital, Los Montanas, the McMillin Company, San Miguel Partners, and Southeast Diversified in San Diego County, and Domenigoni Brothers Ranch, Ranpac Engineering Corporation, and the S.I.C. Corporation in Riverside County. Major public landowners with gnatcatcher subpopulations include the California Department of Parks and Recreation, Camp Pendleton Marine Corps Base, El Toro Marine Corps Air Station, the Fallbrook Naval Annex, Miramar Naval Air Station, the City of San Diego, the City of Lake Elsinore, the Metropolitan Water District, and the counties of Orange, Riverside, and San Diego.

In 1982, the Service designated the coastal black-tailed gnatcatcher (*Polioptila melanura californica*) as a category 2 candidate for addition to the List of Endangered and Threatened Wildlife and solicited status information (47 FR 58454). In subsequent **Federal Register** Notices of Review, the coastal black-tailed gnatcatcher was retained in category 2 (50 FR 37958, 54 FR 554). This taxon and two other subspecies of the black-tailed gnatcatcher were subsequently found to be specifically distinct (Atwood 1988, American Ornithologists' Union 1989) Although *P. m. californica* is now formally recognized as the nominate subspecies of the California gnatcatcher (*P. californica*), the geographic range of the taxon proposed for listing remains unchanged from 1982.

Catgegory 2 comprises taxa for which information in possession of the Service indicates that proposing to list as endangered or threatened is possibly appropriate, but for which conclusive data on biological vulnerability and threat are not currently available to support a proposed rule. Essentially, no data were submitted in response to Service solicitations (published in **Federal Register** Notices of Review in 1982 and 1985) for gnatcatcher status information. To resolve the issue of whether conclusive data on biological vulnerability and threat are available, the Service conducted a status review for what is now the nominate subspecies of the California gnatcatcher. This status review has now been completed (Salata 1991).

On September 21, 1990, the Service received two petitions to list the nominate subspecies of the California gnatcatcher as an endangered species. A third petition for the same action was received on December 17, 1990. This petition also requested the Service to exercise its discretionary authority to issue an emergency regulation to list the subspecies under the Act because the normal listing process was considered to be inadequate to protect the gnatcatcher and its habitat from imminent destruction by clearing and development activities. In accordance with section 4(b)(3)(A) of the Act, on January 24, 1991, the Service found that substantial information had been presented indicating that the petitioned action may be warranted. Although the Service's status review did not uncover sufficient evidence to warrant the publication of an emergency regulation pursuant to section 4(b)(7) of the Act, it does indicate that proposing the coastal California gnatcatcher for listing under the normal procedures of section 4 is warranted. This proposed rule constitutes the final finding for the petitioned action, that listing of the nominate subspecies of the California

gnatcatcher throughout its historic range in southern California and northwestern Baja California, Mexico, is warranted.

Summary of Factors Affecting the Species

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

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The habitat and range of the coastal California gnatcatcher have been greatly reduced. Published estimates indicate that 85 to 90 percent of coastal sage scrub vegetation in California has been lost as a result of urban and agricultural development (Westman 1981 a,b). This represents a reduction from 2.5 million acres to 250,000–375,000 acres, based on an estimate of the historical extent of the coastal sage scrub community by Barbour and Major (1977). A recent quantitative analysis of coastal sage scrub status in Riverside County revealed an 81 percent loss (from 410,000 acres to 79,000 acres) associated with urban and agricultural development over the 60-year period from 1930 to 1990 (P. Fromer, pers. comm.). The historical distribution of coastal sage scrub encompasses most of southern Los Angeles and northwestern Orange Counties (Kuchler 1977). These areas are almost completely urbanized as of 1991. In the late 1970's, it was estimated that 70 percent of the historic acreage of coastal sage scrub in San Diego County had been lost as a result of urban and agricultural development (Oberbauer 1979). Between 1980 and 1990, the population of San Diego County increased by more than 600,000 people. Most of this increase occurred on or near the coast at sites historically occupied, in part, by coastal sage scrub vegetation. About 125,000 acres of coastal sage scrub remain in San Diego County.

All of the published literature on the status of coastal sage scrub vegetation in California supports the conclusion that this plant community is one of the most depleted habitat types in the United States (Kirkpatrick and Hutchinson 1977, Axelrod 1978, Klopatek et al. 1979, Westman 1981a,b,1987, Mooney 1988, O'Leary 1990). Symptomatic of this condition is the fact that 35 taxa of plants and animals associated with the coastal sage scrub community in southern California are under consideration by the Service for listing as endangered or threatened species (Salata 1991). Of these, 10 (29 percent) are category 1 candidates, including 2 taxa which are possibly extinct. Category 1 comprises taxa for which the Service currently has substantial information to support the biological appropriateness of proposing to list as endangered or threatened. Proposed rules have not yet been issued because they have been precluded at present by other listing activity. One coastal sage scrub-associated species, the Stephens' kangaroo rat (*Dipodomys stephensi*), is federally listed as endangered.

Considering that only 3 of 11 subassociations of coastal sage scrub described by Kirkpatrick and Hutchinson (1977) conform to coastal California gnatcatcher habitat, the extent of gnatcatcher habitat loss may exceed the 85 to 90 percent estimate cited above. The *Artemisia californica*-dominated stands of coastal sage scrub preferred by the coastal California gnatcatcher tend to occur on the plateaus and lower slopes of the coast ranges that have been, for the most part, converted to agricultural and urban habitats throughout Los Angeles, Orange, western Riverside, and western San Diego Counties. Based on estimates of gnatcatcher population and home range size by Atwood (1990) and Mock and Jones (1990), respectively, the Service concludes that only about 54,000 acres of coastal sage scrub vegetation are currently occupied by the coastal California gnatcatcher within its United States range. This represents 14–22 percent of the coastal sage scrub vegetation estimated to remain in California and about 3 percent of the pre-colonial acreage of this plant community in southern California.

Concomitant with the extensive loss of coastal sage scrub vegetation has been an increasing degree of habitat fragmentation which reduces habitat quality and promotes increased levels of nest predation, brood parasitism, and interspecific competition (Wilcove 1985, Small and Hunter 1988, Pease and Gingerich 1989). Although the historic distribution of coastal sage scrub in general and gnatcatcher habitat in particular was undoubtedly patchy to some degree, this condition has been greatly exacerbated by urban and agricultural development. A comparison between Kuchler's map of the "Natural Vegetation of California" (Barbour and Major 1977), a map presented by Kirkpatrick and Hutchinson (1980) depicting the distribution of coastal sage scrub in California in 1945, and the results of recent efforts to map coastal sage scrub vegetation or generalized land use in Orange, Riverside, and San Diego Counties (Oberbauer 1979, San Diego Association of Governments 1985, Regional Environmental Consultants 1990a,b, Roberts 1990, County of Orange 1991) serve to illustrate this point. In San Diego County, the pattern of development has created disjunct subpopulations of the coastal California gnatcatcher in the Sweetwater River-Otay Mesa area; between Poway, Tierrasanta, and Santee; in the Carlsbad-San Marcos-Rancho Penasquitos area; and on Camp Pendleton Marine Corps Base. In Orange County, gnatcatcher subpopulations appear to be concentrated in only two areas: the coastal foothills between Corona Del Mar and Laguna Beach, and northwest of Ortega Highway. The once extensive range of the coastal California gnatcatcher in Los Angeles County is now restricted to a small portion of the Palos Verdes Peninsula. In Riverside County, isolated subpopulations of the gnatcatcher occur in the Perris-Lake Mathews-Lake Elsinore area, in the Domenigoni Valley, in the Temecula-Rancho California area, and near the "badlands" from Box Springs Mountain to Pigeon Pass Road. Even within these subpopulation areas, a high degree of habitat fragmentation exists. Recent work by Soulé et al. (1988) strongly suggests that small islands of vegetation may not support viable populations of small passerine bird species like the coastal California gnatcatcher.

Another consequence of urbanization that is contributing to the loss, degradation, and fragmentation of coastal sage scrub vegetation is an increase in wildfires due to anthropogenic ignitions. For example, one of the largest areas of coastal sage scrub vegetation remaining within San Diego County occurs on Camp Pendleton Marine Corps Base. Approximately 20,000 acres of coastal sage scrub vegetation occur on the base (D. Lawson, U.S. Marine Corps, pers. comm.). During the last two years alone, over 15,000 acres of native vegetation, much of it coastal sage scrub, have burned in fires started incidental to military training activities. Two recent fires consumed over 6,500 acres of coastal sage scrub vegetation occupied, in part, by the coastal California gnatcatcher (D. Lawson, pers. comm.). High fire frequencies and the lag period

associated with recovery of the vegetation (which may be prolonged under drought conditions such as those currently existing in southern California) may significantly reduce the viability of affected subpopulations.

Atwood (1990) presents an in-depth discussion of gnatcatcher (and indirectly coastal sage scrub) status in southern California by subregion. The synopsis provided by Atwood (1990) further establishes the magnitude of threat to coastal sage scrub vegetation in general and the coastal California gnatcatcher in particular.

Coastal California gnatcatchers have been extirpated from at least 42 sites occupied prior to 1960 (Atwood 1980, 1990). Of 56 sites that supported coastal sage scrub and coastal California gnatcatchers in 1980, 18 (32 percent) had been destroyed and 15 (27 percent) were partially impacted by development in 1990 (Atwood 1990). The coastal California gnatcatcher is now extirpated from Ventura and San Bernardino Counties. The species' once extensive range in Los Angeles County is now restricted to a small portion of the Palos Verdes Peninsula. Over 96 percent of the total low elevation acreage in Los Angeles County that might have historically supported populations of the coastal California gnatcatcher has been largely or entirely developed (Atwood 1990). As noted above, the pattern of development has created disjunct subpopulations within the remaining portion of the gnatcatcher's United States range. Even within these subpopulation areas, a high degree of habitat fragmentation exists. The trend of habitat loss and fragmentation is expected to continue as southern California continues to grow at a rapid rate. At the present time, about 15 million people reside in the United States range of the coastal California gnatcatcher. By 1995, the population of Orange, Riverside, and San Diego Counties is predicted to increase by more than 460,000 people. Over 90 development projects encompassing in excess of 150,000 acres (including over 28,000 acres of coastal sage scrub vegetation) have recently been proposed, approved, or initiated within the current range of the coastal California gnatcatcher in the United States. The actual extent of coastal sage scrub vegetation within these project areas is probably much higher. In many cases, the amount of coastal sage scrub vegetation and gnatcatcher status within a project area were not quantified in environmental review documents. Atwood (1990) presents additional information on future land use activities within the current United States range of the coastal California gnatcatcher. Considering the limited extent and high degree of fragmentation of currently occupied gnatcatcher habitat in the United States, further losses can be expected to have a significant influence on the viability of extant subpopulations.

Although the status of the coastal California gnatcatcher and its habitat in Baja California, Mexico, are not well documented, the Service acknowledges that substantially more potential habitat may remain there than in the historically more extensive United States portion of its range. However, the same factors (urban and agricultural development) that have affected its status in the United States are also clearly having an impact south of the border.

The population of Baja California Norte (2.5 million people in 1990) exceeds that of San Diego County, the second most populous county in California. Urban development along both sides of the border has probably isolated the Mexican and United States subpopulations of the coastal California gnatcatcher given its sedentary nature and the wide hiatus in suitable habitat at this locality.

Bowler (Restoration and Management Notes, in press) reported that stands of coastal sage scrub vegetation in northern Baja California "are being grazed, burned to increase grass production, and graded for beach house/urban development construction, and converted to agricultural farmland." Rea and Weaver (1990) noted that coastal sage scrub vegetation inhabited by cactus wrens (*Campylorhynchus brunneicapillus*) near Tecate "has been seriously degraded by burning, grazing, and conversion to vineyards during the past two decades (Marcos Camacho, pers. comm.)." Extensive tracts of coastal sage scrub vegetation on the marine terraces between Colonet and San Quintin have been converted to tomato fields (R. Minnich, Univ. of California, Riverside, Dept. of Earth Sciences, pers. comm.). The San Quintin kangaroo rat (*Dipodomys gravipes*), a coastal lowland-associated species endemic to Baja California from San Telmo to El Rosario, is nearly extinct as a result of this change in land use (Best 1983). Only one population, consisting of about 60 individuals, is currently known to exist (T. Best, Auburn Univ., Dept. of Zoology and Wildlife Science, pers. comm.).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not known to be applicable.

C. *Disease or predation.* Several species have been reported as potential predators of coastal California gnatcatcher eggs or nestlings. These include the scrub jay (*Aphelocoma coerulescens*), common crow (*Corvus brachyrhynchos*, commen raven (*Corvus corax*), opossum (*Didelphis marsupialis*), raccoon (*Procyon lotor*), gray fox (*Urocyon cinereoargenteus*), coachwhip (*Masticophis flagellum*), striped racer (*Masticophis lateralis*), gopher snake (*Pituophis melanoleucus*), rosy boa (*Lichanura trivirgata*), common kingsnake (*Lampropeltis getulus*), southern alligator lizard (*Gerrhonotus multicarinatus*), domestic or feral cat (*Felis domestica*), wood rat (*Neotoma* spp.), deer mouse (*Preomyscus maniculatus*), house mouse (*Mus musculus*), and black rat (*Rattus rattus*). As noted above, habitat fragmentation promotes higher levels of nest predation as well as brood parasitism by the brown-headed cowbird (*Molothrus ater*) and interspecific competition. Soulé et al. (1988) speculated that as coyotes (*Canis latrans*) disappear from small, isolated patches of chaparral (including coastal sage scrub) in urbanized areas, the absence of these large predators allows greater population levels of smaller "bird predators" such as foxes, opossums, or domestic cats. These authors suggested that increased predation pressures resulting from the absence of coyotes may significantly contribute to local extinctions of bird species, like the coastal California gnatcatcher, from small, fragmented patches of vegetation.

Disease is not known to be a factor affecting this species at this time.

D. *The inadequacy of existing regulatory mechanisms.* No regulatory mechanisms are currently in effect that adequately protect the coastal California gnatcatcher and its habitat. A clear and effective policy with respect to conserving this species has yet to emerge at the local, county, State, or Federal level. The population and habitat status information outlined above clearly reflects this condition. The coastal California gnatcatcher is not listed under the California Endangered Species Act and most populations occur on private lands. Local and county zoning designations are subject to change and do not incorporate the principles of conservation biology in the establishment and configuration of open space areas. What few resource protection ordinances exist are subject to interpretation and in cases where findings of overriding social and economic considerations are made, compliance is not required. In many

cases, land-use planning decisions are made on the basis of environmental review documents, prepared in accordance with the California Environmental Quality Act or the National Environmental Policy Act, that do not adequately address potential impacts to the coastal California gnatcatcher and its habitat, if considered at all. One indication of the lack of existing regulatory mechanisms to protect the gnatcatcher and its habitat is provided by a recent study in San Diego County. The City of San Diego (1990) evaluated the magnitude of impact associated with development to native plant communities within its jurisdiction for the period 1985 to 1990. This study revealed a 97 percent loss of coastal sage scrub (384 of 395 acres) in conjunction with 15 projects. This study also evaluated eight cases where no distinction was made between chaparral and coastal sage scrub vegetation. A 95 percent loss of chaparral/coastal sage scrub (1,308 of 1,371 acres) was documented for these projects.

Several land-use planning efforts that address, in part, the issue of conserving the coastal California gnatcatcher have recently been initiated at the State, county and local level. The County of Riverside is developing a multi-species conservation plan that includes the coastal California gnatcatcher. Orange County and the San Diego Association of Governments (SANDAG) are utilizing geographic information system computer technology to define, in part, the status of sensitive resources (including coastal sage scrub and the coastal California gnatcatcher) within their respective areas of jurisdiction in the context of regional open space planning. SANDAG has also established a technical advisory committee to guide the development of a regional (San Diego County) open space plan. The City of Carlsbad (San Diego County) has adopted a resolution approving a work program and establishing an ad hoc advisory committee for the development of a coastal sage scrub resource management plan. The City of Poway (San Diego County) has retained a consultant to prepare a report quantifying existing biological resources within the City and its adopted sphere of influence. The report will also include recommendations for protecting and preserving the most significant of these resources during the course of future development and the results of a focused coastal California gnatcatcher resource study. Several large landowners in Orange and San Diego Counties (the Baldwin Company, Fieldstone, Home Capital, and the Irvine Company) have expressed an interest in an have met with the Service to discuss the development of habitat conservation plans for the coastal California gnatcatcher. The Irvine Company is funding The Nature Conservancy (Conservancy) to prepare an open space plan for 16,000 acres of its land in Orange County which includes large tracts of coastal sage scrub vegetation and an unknown number of gnatcatchers. Camp Pendleton Marine Corps Base in northern San Diego County intends to prepare a management plan for the coastal California gnatcatcher. The State of California has recently initiated a natural community conservation planning program in southern California. The initial objective of this effort is to develop conservation strategies for the effective, long-term protection of the coastal sage scrub community.

In August 1991, the California Fish and Game Commission rejected a recommendation from their Department of Fish and Game to add the California gnatcatcher to the State list of candidate species. Adding the bird to the State list would have provided immediate protection under the California Endangered Species Act. The Commissioners cited voluntary efforts called for in the natural community conservation planning program being more effective than mandatory State protection as the reason for their decision.

With the exception of the Conservancy study, the Service is participating in all of these efforts and strongly supports their resource conservation objectives. However, all of these planning efforts are in the early stages of development. It is likely to be years before final plans are completed, funded, and implemented. In the interim, the loss and fragmentation of gnatcatcher habitat is occurring and is expected to continue especially in light of the large projected population growth within the United States range of the coastal California gnatcatcher and the failure of existing regulatory mechanisms to adequately address this issue. Considering the limited extent and high degree of fragmentation of occupied gnatcatcher habitat remaining in the United States, further losses can be expected to have a significant influence on the viability of extant subpopulations. A comprehensive regional conservation strategy for the coastal California gnatcatcher is clearly needed. The initial effort by the Service to develop such a plan (based on coordination with numerous agencies, organizations, and individuals) during 1990 was unsuccessful.

Another indication of the ineffectiveness of existing regulatory mechanisms to protect the coastal California gnatcatcher is provided by seven recent cases involving the destruction of about 850 acres of coastal sage scrub vegetation occupied, in part, by gnatcatchers in Orange and San Diego Counties. These actions occurred prior to regulatory agency review or issuance of grading permits. In two of these cases, gnatcatcher habitat was destroyed shortly after submittal of a letter from the Service to a local regulatory agency advising the agency that a draft environmental review document for a proposed housing development failed to disclose the presence of gnatcatchers onsite. Overall, about 1,500 acres of land was cleared in conjunction with agricultural, weed abatement, and fire protection activities or to preclude nesting activities by migratory birds.

Although existing grading ordinances regulate some or all of these activities, they have not proven to be effective deterrents to destruction of gnatcatcher habitat. In a related matter, several hundred acres of high quality coastal sage scrub vegetation occupied by the coastal California gnatcatcher were recently destroyed near Lake Elsinore in Riverside County (L. Hays, U.S. Fish and Wildlife Service, and S. Myers, Tierra Madre Consultants, Riverside, California, pers. comm.). This activity was authorized under a grading permit issued by the City of Lake Elsinore in conjunction with an approved reclamation plan for a previously mined site bordering the stand of coastal sage scrub. The entire area lies within an approved but not yet constructed golf course-residential community. Some jurisdictions (e.g., the Cities of Chula Vista and Poway in San Diego county) do not regulate grubbing of vegetation. Individuals or entities who grade property for agricultural purposes within the counties of Orange and Riverside are not required to obtain a grading permit or any other approval in order to grade.

In adopting an ordinance imposing interim regulations for grading and clearing, the County of San Diego Board of Supervisors (1988) noted several characteristics associated with these types of activities that appear to apply throughout the United States range of the coastal California gnatcatcher: "* * * Clearing and illegal grading have been used to destroy environmental resources prior to application for a land development permit, during the permit

process, after project approval but prior to the application of protecting open space easements, and after dedication of open space * * * Grading violations, when reported, result in relatively minimal fines and, because of the difficulty in obtaining convictions, are not a serious deterrent to illegal grading. A fine often will not prevent a violation of this ordinance because a fine may be considered simply as an additional development cost * * *. Clearing for legitimate reasons (geotechnical exploration and access for percolation tests and wells, and clearing for fire protection) is frequently done well in excess of the minimum necessary to accomplish the purpose."

In some recent cases, habitat restoration requirements have been imposed as a penalty for violation of grading ordinances. However, this may not resolve the problem in a biologically-meaningful way. The feasibility of artificially creating a viable coastal sage scrub plant community suitable for the coastal California gnatcatcher has yet to be demonstrated. Although the results of a recent effort by the California Department of Parks and Recreation to restore a small area of coastal sage scrub in Crystal Cove State Park (Orange County) are encouraging, they are not conclusive.

The Service is not aware of any existing regulatory mechanisms in Baja California, Mexico, that protect the gnatcatcher and its habitat. The recent decline (to the brink of extinction) of the San Quintin kangaroo rat as a result of extensive habitat loss in conjunction with agricultural development very dramatically reflects the absence of effective regulatory protection in the Mexican portion of the coastal California gnatcatchers' range.

E. *Other natural or man-made factors affecting its continued existence.* Grazing and air pollution are also adversely affecting the coastal sage scrub plant community upon which the gnatcatcher depends (Westman 1987, O'Leary and Westman 1988). The deterioration of habitat quality due to the current drought conditions (which are also conducive to destructive wildfires) may also be adversely influencing the viability of gnatcatcher subpopulations.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the Service finds that the coastal California gnatcatcher is in danger of extinction throughout all or a significant portion of its range due to habitat loss and fragmentation and the inadequacy of existing regulatory mechanisms. Therefore, the preferred action is to list this taxon as endangered. Threatened status would not accurately reflect the population decline of and imminent threats to this species. The current status of the coastal California gnatcatcher reflects the cumulative effects of incremental losses of habitat that have occurred and are continuing to occur over the past several decades in conjunction with urban and agricultural development. For this reason, the Service finds that an imminent threat does not currently exist that would warrant an emergency listing. However, the decision to propose this species for listing as endangered is based on an estimated 85–90 percent loss of habitat within its United States range and on a predictable future rate of habitat loss due to on-going urban and agricultural development. The Service is concerned about the possibility that destruction of habitat may accelerate during the period following the publication of this proposed rule, and will continue to closely monitor the status of the coastal California gnatcatcher during this period. If the conditions on which the Service's decision to list the gnatcatcher as endangered through the normal rule-making process change as a result of an acceleration of habitat destruction, and this change poses a significant risk to the well-being of the species, the Service may exercise its emergency authority to list the species, in accordance with section 4(b)(7) of the Act. Critical habitat is not being proposed for the reasons discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires critical habitat to be designated to the maximum extent prudent and determinable at the time a species is listed as endangered or threatened. The Service has concluded that designation of critical habitat is not prudent for the coastal California gnatcatcher at this time. The Service's regulations (50 CFR 424.12(a)(1)) state that 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 degree of such threat to the species; or (2) such designation of critical habitat would not be beneficial to the species.

In the case of the California gnatcatcher, both criteria are met. As discussed under factor "D" in the "Summary of Factors Affecting the Species," some landowners or project developers have brushed or graded sites occupied by gnatcatchers prior to regulatory agency review or the issuance of a grading permit. In two instances, gnatcatcher habitat was destroyed shortly after the Service notified a local regulatory agency that a draft environmental review document for a proposed housing development failed to disclose the presence of gnatcatchers on-site. On the basis of these kinds of activities, the Service finds that publication of critical habitat descriptions and maps would likely make the species more vulnerable to activities prohibited under section 9 of the Act.

Most subpopulations of the coastal California gnatcatcher in the U.S. are found on private lands where Federal involvement in land-use activities does not generally occur. Additional protection resulting from critical habitat designation is achieved through the section 7 consultation process. Since section 7 would not apply to the majority of land-use activities occurring within critical habitat, its designation would not appreciably benefit the species.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(4) of the Act requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, section 7(a)(2)

requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Federal agencies that may be involved through activities they authorize, fund, or carry out that may affect the coastal California gnatcatcher or its habitat include the Federal Highway Administration, the Federal Housing Administration, and the Department of the Navy (including Camp Pendleton Marine Corps Base, Fallbrook Naval Annex, and Miramar Naval Air Station).

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 (including harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt any such conduct), import or export, transport in interstate or foreign commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

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

Public Comments Solicited

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

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

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

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

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

Any final decision on this proposal will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to the Field Supervisor at the Laguna Niguel Field Station address referred to in the **ADDRESSES** section.

National Environmental Policy Act

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

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List of Subjects in 50 CFR Part 17

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

Proposed Regulations Promulgation.

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

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

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

2. It is proposed to amend § 17.11(h) by adding the following in alphabetical order under "Birds," 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						
•	•	•	•	•	•	•	
BIRDS							
•	•	•	•	•	•	•	
Gnatcatcher, Coastal California	*Polioptila californica californica*	U.S.A. (CA), Mexico	Entire	E		NA	NA
•	•	•	•	•	•	•	

Dated: September 5, 1991.

Richard N. Smith,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 91–22173 Filed 9–16–91; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

RIN 1018–AB–42

Endangered and Threatened Wildlife and Plants; Finding on Petition and Initiation of Status Review of Certain Kangaroos

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of extension of public comment period.

SUMMARY: The Service announces that the public comment period on the status of certain kangaroos will be extended to September 24, 1991.

DATES: Comments must be received by September 24, 1991.

ADDRESSES: Comments, information, and questions should be submitted to

the Chief, Office of Scientific Authority; Mail Stop: Room 725, Arlington Square; U.S. Fish and Wildlife Service; Washington, DC 20240. The petition finding supporting data, and comments will be available for public inspection, by appointment, from 8 a.m. to 4 p.m., Monday through Friday, in room 740, 4401 North Fairfax Drive, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Chief, Office of Scientific Authority, at the above address, or by phone at (703) 358–1708 or FTS 921–1708.

SUPPLEMENTARY INFORMATION:

Background

The Fish and Wildlife Service (Service), in the **Federal Register** of June 12, 1991, (56 FR 26971–2), issued a notice of a status review and petition finding for the red kangaroo (*Macropus rufus*), the western gray kangaroo (*M. fuliginosus*), and the eastern gray kangaroo (*M. giganteus*) in mainland Australia. The status review refers to action on a December 20, 1989, petition submitted by Greenpeace USA requesting the Service to reinstate a former ban on the importation of kangaroo products into the United States. The petition finding refers to a November 6, 1990, petition submitted by the Wildlife Legislative Fund of America requesting the Service to remove the three species of kangaroos from the list of threatened species under the U.S. Endangered Species Act. The **Federal Register** notice indicated that comments and information on the petition finding and status review needed to be submitted to the Service by September 10, 1991. The Service has recently received a request to extend this comment period to September 24, 1991, so that additional pertinent information could be submitted. The Service, intends that any final rule eventually developed because of the two petitions will be as accurate and as effective as possible in the conservation of listed species. Consequently, the Service has agreed to extend the comment period to September 24, 1991, in the hope that it may receive important and significant new scientific information that will be helpful in developing the review finding and any subsequent final rule.

The Service will consider any new scientific information received during the extended comment period, along with all other available data, in making a finding whether the requested actions in the petitions are warranted, not warranted, or warranted but precluded by other listing activities. The subsequent review finding will be made in as timely a manner as is possible.

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.

Dated: September 11, 1991.

John D. Buffington,

Regional Director, Region 8.

[FR Doc. 91–22369 Filed 9–16–91; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 649

American Lobster Fishery

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

ACTION: Notice of availability of an amendment to a fishery management plan and request for comments.

SUMMARY: NOAA announces that the New England Fishery Management Council (Council) has submitted Amendment 4 to the Fishery Management Plan (FMP) for American Lobster for review by the Secretary of Commerce (Secretary) and requests comments from the public.

DATES: Comments will be accepted until November 4, 1991.

ADDRESSES: Send comments to Richard B. Roe, Regional Director, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930. Clearly mark the outside of the envelope "Comments on Amendment 4 to the American Lobster FMP". Copies of the amendment are available upon request from Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway, Saugus, MA 01906.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Resource Policy Analyst, 508–281–9273.

SUPPLEMENTARY INFORMATION: This amendment was prepared under the provisions of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1803 *et seq*).

Amendment 4 proposes to reduce the minimum carapace size (currently 3$^{9}/_{32}$ inches (8.33 cm) since January 1, 1991) for American lobster caught in the U.S. exclusive economic zone (EEZ) to 3¼ inches (8.26 cm) to conform to the size that is currently required in the major lobster-producing states of Maine, Massachusetts and Rhode Island. Moreover, this amendment would delay further increases in the minimum size until two years after implementation of the amendment. Amendment 4 would also modify the minimum dimensions of the escape vent to provide optimum escapement of smaller than legal-size ("sublegal") lobsters consistent with a 3¼ inch (8.26 cm) minimum carapace size. For rectangular escape vents the opening must be not less than 1⅞ inches (47.6 mm) high by 6 inches wide. For circular vents, traps must contain two openings not less than 2⅜ inches (60.3 mm) in diameter.

If, within two years of the amendment's implementation, an amendment is not approved that provides at least an equivalent level of protection for the American lobster resource in the EEZ as provided by Amendment 2, the increases in the minimum size approved under Amendment 3 would resume. In accordance with Amendment 3, the minimum dimensions of the escape vent also would increase to be consistent with a 3$^{5}/_{16}$ inch (8.41 cm) minimum carapace length.

This amendment defines overfishing for the American lobster resource. The information, however, necessary to determine if the stock is being harvested at fishing mortality levels in excess of that defined level of recruitment overfishing is unavailable currently.

The receipt date for this amendment is September 5, 1991. Proposed regulations to implement this amendment are scheduled to be published within 15 days of the receipt date.

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

Dated: September 11, 1991.

David S. Crestin,

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

[FR Doc. 91–22305 Filed 9–12–91; 3:12 pm]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 56, No. 180
Tuesday, September 17, 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.

DEPARTMENT OF AGRICULTURE

Forest Service

Exemption From Appeal; Plumas National Forest, CA

AGENCY: Forest Service, USDA.

ACTION: Notice of Exemption from Appeal, Bolder/Beartrap Insect Salvage Project, Dotta Insect SSTS Project, Coots Insect SSTS Project and the Don Insect SSTS Project, Beckwourth Ranger District, Plumas National Forest.

SUMMARY: The USDA Forest Service, Plumas National Forest, Beckwourth Ranger District, is exempting from administrative appeal its decision to sell dead and dying trees that are being killed by the combined effects of bark beetles and severe drought and to manage forest resources within the Bolder/Beartrap Insect Salvage Project, Dotta Insect SSTS Project, Coots Insect SSSTS Project and the Don Insect SSTS Project. The proposed projects are located in Plumas County, California; the project areas encompass 4,000 acres within Management Area 39-Haskell, 1,140 acres within Management Area 36-Dotta, 1,920 acres within Management Area 37-Lake Davis and 830 acres within Management Area 33-Nelson Creek. These Management Areas are described in the Plumas National Forest Land and Resource Management Plan (LMP), August 1988.

The environmental documents will be completed and decisions issued in September 1991. The total estimated volume of dead and dying timber to be offered for sale in October 1991 is 4.0 million board feet (MMBF) on approximately 7,890 acres of National Forest System Land (NFSL). The 45 day administrative appeal period for the EA, coupled with 100 days to resolve an administrative appeal, would result in the timber not being harvested this year. With the exemption from the administrative appeal process, timber harvesting could proceed by the latter part of October and substantial harvesting completed before the onset of winter. The timber would be harvested using tractor logging systems. The areas all proposed to utilize existing transportation systems.

The eastside of the Plumas National Forest is in the fifth consecutive year of drought conditions. As forest trees continue to experience drought-caused stress, populations of the fir engraver beetle, *Scolytus ventralis,* have increased to epidemic proportions. The resulting drought and insect-caused mortality have left thousands of acres on which many white fir and red fir trees are dead or dying. Many stands of mixed conifer timber have lost most or all of the white fir component, leaving jeffrey pine, ponderosa pine, Douglas-fir, and incense-cedar. Many stands of predominantly white fir and the nearly pure stands of red fir typically growing at high elevations (above 6,000 feet) are currently understocked due to the mortality. Areas having many dead and dying trees are intermingled with areas having relatively few dead trees.

Fuel loading would increase if salvage operations don't occur in 1991. The large number of dead trees have resulted in high risk fire hazard due to large amounts of dead, dry fuels covering large areas. It left alone, the dead trees would fall to the ground, resulting in a fuel arrangement that would pose an even higher risk of catastrophic fire. The need exists to reduce the high risk fire hazard by managing the fuels. Avoiding a catastrophic fire would serve to protect watersheds and other valuable resources and facilitate the long-term productivity provided for in the Plumas National Forest Land and Resource Management Plan, 1988 (LMP). Salvage harvest of utilizable wood fiber, following guidelines as set forth in the Forest goals, policies and direction of the LMP, would partially accomplish the reduction of fuels while providing funds needed to accomplish additional fuel management objectives.

Approximately 98 percent of the salvage timber is true fir that has invaded east side pine stands as a result of fire suppression that has occurred since the turn of the century. There is a wide range of tree sizes however, the average diameter is 14 inches. If not harvested this year most of this small true fir will deteriorate and be unsalvageable by next year. There would be no money available from timber sale collections to treat the fuel load created by this massive increase in tree mortality.

Approximately 4.0 MMBF of dead and dying timber will be salvaged from the infested areas. A detailed inventory of the timber has not been completed to date, however, approximately 98 percent of the trees to be salvaged are true fir with an average diameter of 16 inches. Using the Rate of Deterioration of Fire-Killed Timber in California (Kimmey 1955), net volume losses from sawlogs can be expected to average 80% by the spring of 1992. Volume losses at this time are 40 percent. The net value of this timber can be expected to decrease to zero with a delay into the summer of 1992; the volume would be distributed over the same acres thus increasing per unit logging costs to the point where it would be uneconomical to log.

Currently, standing dead timber is located within falling distance of numerous Forest Service system roads. These roads are used by the public for recreation including off-road vehicles, dirt bikes, and hunters. A delay in removng this timber would create a hazardous situation whereby the Forest Service could be held liable for damage, injury, or death.

Therefore, pursuant to 36 CFR 217.4(a)(11), it is my decision to exempt from appeals the decisions for the Bolder/Beartrap Insect Salvage Project, Dotta Insect SSTS Project, Coots Insect SSTS Project, and the Don Insect SSTS Project environmental documents. The decision to reduce the fire hazard on Plumas NFSL and offer salvage timber for sale within the aforementioned salvage projects will not be subject to administrative appeal and review pursuant to 36 CFR part 217.

EFFECTIVE DATE: This decision will be effective September 17, 1991.

FOR FURTHER INFORMATION CONTACT: Questions about this decision should be addressed to Ed Whitmore, Timber Management Staff Director, Pacific Southwest Region, USDA Forest Service, 630 Sansome Street, San Francisco, CA 94111, (415) 705–2648, or John Palmer, acting Forest Supervisor,

Plumas National Forest, P.O. Box 11500, Quincy, CA 95971, (916) 283–2050.

ADDITIONAL INFORMATION: The environmental analyses for these proposals will be documented in their respective environmental documents. Pursuant to 40 CFR 1501.7, scoping is currently in progress for all these projects. Scoping was conducted by the Beckwourth District Ranger to determine the issues to be addressed in the environmental analyses.

Public scoping has included letters to interested individuals/groups, the California Department of Forestry, the California Department of Fish and Game; this letter was posted in the post offices in the vicinity. The Portola Reporter published two articles requesting general public input for the salvage sale program. The Feather River Bulletin has published several articles on the general insect problem on the Plumas National Forest and requested concerns be addressed to the appropriate District Ranger. On May 10, 1990, the District held an open house to discuss the insect problem on the District and identify public concerns. Written responses have been received from Sierra Pacific Industries, Friends of Plumas Wilderness, Sierra Club (Sierra Nevada Group), Wilderness Society, Feather River Alliance for Resource and Environment, California Regional Water Quality Control Board, Northern Sierra Air Quality Management District, and California Sportfishing Protection Alliance. The comments are addressed in the environmental documents.

There are no Roadless Areas or Wild and Scenic Rivers associated with these projects. There are two spotted owl habitat areas, four spotted owl nesting pairs (two within and two outside of the SOHAs), one bald eagle and 2 goshawks within the project area. Impacts to these species are minimized through project mitigation measures which are documented in the appropriate environmental documents.

All four spotted owl nest sites will be protected by seasonal closure and retention of 7–9 snags per acre within the 100 acre core area as per Forest Plan direction. Bald eagle forage will be protected by seasonal closure and goshawk nest sites will be protected by seasonal closure and a 50 acre no cut area. Only trees that are currently dead or will die within 6 months are proposed for harvest.

The Beckwourth Ranger District is expected to complete the environmental documentation and issue decisions in September 1991. The environmental documents will be available for public review at the Supervisor's Office located at 159 Lawrence Street, Quincy, CA and at the Beckwourth Ranger District Office, Mohawk Road, Blairsden, CA, 96103.

Dated: September 9, 1991.

Joyce T. Muraoka,

Deputy Regional Forester.

[FR Doc. 91–22284 Filed 9–16–91; 8:45 am]

BILLING CODE 3410–11–M

Table Top Prospect Exploratory Oil and Gas Well

AGENCY: USDA, Forest Service is the lead agency. USDI, Bureau of Land Management is a cooperating agency.

ACTION: Notice of intent to prepare environment analysis.

SUMMARY: The Forest Service, along with the Bureau of Land Management as a cooperating agency, will prepare an environmental analysis for an exploratory oil and gas well proposed by Chevron USA, Inc. on lands administered by the Evanston Ranger District of the Wasatch-Cache National Forest. The analysis will be tiered to the current Land and Resource Management Plan and associated Final Environmental Impact Statements.

DATES: Comments concerning the scope of the analysis should be received in writing by October 11, 1991.

ADDRESSES: Send written comments to Stephen Ryberg, District Ranger, Evanston Ranger District, P.O. Box 1880, Evanston, WY 82931–1880.

FOR FURTHER INFORMATION CONTACT: Bernard Asay, Evanston Ranger District, P.O. Box 1880, Evanston, WY 82931–1880, telephone number (307) 789–3194; or Barry Burkhardt, Wasatch-Cache National Forest, 125 South State Street, Salt Lake City, UT 84138. Telephone number (801) 524–6333 or (801) 524–5030.

SUPPLEMENTARY INFORMATION: Chevron, USA, Inc. has submitted a proposal to drill an exploratory oil and gas well on Chevron's Federal oil and gas lease U–54044 in Township 1 North, Range 10 East, NW¼SE¼ Section 21 (referred to as the Table Top Prospect). The proposed site is located in the Main Fork of the Stillwater drainage. The proposal includes the construction of an access road and a drill site approximately 300 feet by 475 feet. The drilling period is expected to last approximately six months. The Forest Service will prepare an environmental analysis to evaluate potential environmental consequences associated with this proposal and alternatives to the proposal in accordance with the National Environmental Policy Act. With the passage of the Federal Onshore Oil and Gas Leasing Reform Act (FOOGLRA) and the implementing regulations (36 CFR 228), the Forest Service was given the authority to approve the Surface Use Plan of Operations portion of the Application for Permit to Drill (APD) which includes the identification of mitigation measures deemed necessary to minimize impacts on other resource values or uses. The Forest Service decision related to the approval of the Surface Use Plan of Operations will be appealable under Forest Service Regulation 36 CFR 217. The final approval of the APD is the authority of the Bureau of Land Management. At this time the Forest Service is uncertain as to whether the environmental analysis will be disclosed in an Environmental Assessment or an Final Environmental Impact Statement. Issues to be addressed in the analysis will be determined through public scoping. For this purpose, the Forest Service is requesting written comments. Stephen Ryberg, District Ranger of the Evanston Ranger District is the responsible offical. The Bureau of Land Management has been identified as a cooperating agency. If an EIS is prepared the draft will be available in early December. The Forest Service anticipates completion of the analysis in May, 1992

Should an Final Environmental Impact Statement be appropriate, the Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of a Draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 533 (1978). Also, environmental objections that could have been raised at the draft stage but are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider then and respond to them in the Final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action,

comments on the Draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the Draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

Dated: September 6, 1991.

William Levere,

Deputy Forest Supervisor, Wasatch Cache National Forest.

[FR Doc. 91-22232 Filed 9-16-91; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

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

Agency: Bureau of Economic Analysis.

Title: Expenditures of U.S. travelers in Mexico.

Form Number: Agency—Be-575; OMB—0608-0001.

Type of Request: Extension—no change.

Burden: 5000 respondents; 500 reporting hours. Average time per response is .10 hours.

Needs and Uses: The survey collects data on average travel expenditures of U.S. persons traveling overland to Mexico. The data are used to develop international travel estimates in the U.S. balance of payments and the U.S. national income and product accounts.

Affected Public: Individuals traveling to Mexico.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Gary Waxman, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, room 5327, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Gary Waxman, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: September 11, 1991.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

Bureau of Export Administration

Automated Manufacturing Equipment Technical Advisory Committee; Closed Meeting

A meeting of the Automated Manufacturing Equipment Technical Advisory Committee will be held October 17, 1991, 9:30 a.m. in the Herbert C. Hoover Building, room 1617F, 14th Street & Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to automated manufacturing equipment and related technology.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on January 5, 1990, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the notice of determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC 20230. For further information, contact Lee Ann Carpenter on (202) 377-2583.

Dated: September 11, 1991.

Betty A. Ferrell,

Director, Technical Advisory Committee Staff.

[FR Doc. 91-22363, Filed 9-16-91; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

[A-357-007]

Carbon Steel Wire Rod From Argentina; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On May 28, 1991, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on carbon steel wire rod from Argentina. The review covers shipments by one exporter of carbon steel wire rod from Argentina to the United States and the period November 1, 1988 through October 31, 1989. We preliminarily found no dumping margin.

We gave interested parties an opportunity to comment on the preliminary results, and received written comments from petitioners and respondent. Based on the analysis of the comments received, we have not changed the preliminary results.

EFFECTIVE DATE: September 17, 1991.

FOR FURTHER INFORMATION CONTACT: Robert Bolling or Alain Letort, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-3793 or telefax (202) 377-1388.

SUPPLEMENTARY INFORMATION:

Background

On May 28, 1991, the Department published in the **Federal Register** (56 FR 24057) the preliminary results of its administrative review of the antidumping order on carbon steel wire rod from Argentina (49 FR 46180; November 23, 1984). The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended ("the Act").

Scope of the Review

Imports covered by this review are shipments of carbon steel wire rod. Until January 1, 1989, this merchandise was classifiable under item number 607.1700 of the TSUSA. This merchandise is currently classifiable under HTS item numbers 7213.20.00, 7213.31.30, 7213.39.00, 7213.41.30, 7213.49.00, and

7213.50.00. As with the TSUSA numbers, the HTS numbers are provided for convenience and customs purposes. The written product description remains dispositive.

Analysis of Comments Received

We gave interested parties an opportunity to comment on our preliminary results of the review. Petitioners requested a hearing but later withdrew their request. We received written comments and rebuttals from petitioners and respondent.

Comment 1

Petitioners argue that the Department made a procedural error in not pursuing their allegation of below-cost sales by Acindar in third-country markets. Petitioners claim that they provided the Department with reasonable grounds to believe or suspect that Acindar's sales of carbon steel wire rod in third countries were made at prices which represented less than the cost of producing the merchandise ("COP"). Instead of making a determination as to the adequacy of petitioners' below-cost sales allegation, however, petitioners allege the Department collapsed its analysis of the reasonableness of their claim with an actual cost investigation and failed to initiate a COP investigation on the basis of petitioners' "threshold showing" of below-cost sales by Acindar.

Respondent contends that the Department correctly examined the "whole picture" before determining there were no reasonable grounds to believe or suspect that Acindar sold carbon steel wire rod in third countries at below-cost prices.

Department's Position

We agree with respondent. We reviewed the calculations submitted by petitioners in support of their claim that Acindar's sales to third countries were made at below-cost prices. We focused our attention on sales to Chile, which we determined most satisfied the criteria of 19 CFR 353.49(b) in terms of similarity, and quantity for purposes of comparison with sales to the United States. We reviewed petitioners' below-cost allegation and found that it was based (1) on a COP calculation that did not take into account the proper level of depreciation and the appropriate exchange rate, and (2) on a calculation of foreign market value ("FMV") that did not include "reembolso" payments received by Acindar. (These issues are discussed at greater length in the next two comments.) Once these factors were properly taken into account, we found no evidence that any of Acindar's sales of wire rod in Chile were priced below COP. We therefore determined it was improper to issue a cost questionnaire and decided to base foreign market value on Acindar's sale prices in Chile.

Comment 2

Petitioners argue that the Department used an incorrect depreciation figure in recalculating Acindar's production costs by relying on the depreciation calculated by Acindar for wire rod on a semi-annual basis. Depreciation calculated on a monthly basis, petitioners claim, would more accurately have reflected the fall in value of the Argentine austral in relation to the U.S. dollar. Petitioners also argue that Acindar understated wire rod depreciation by failing to include certain depreciable assets, such as vehicles and headquarters buildings, which are normally included in depreciation and comprise a substantial portion of fully absorbed production costs. Further, petitioners allege that had the Department calculated depreciation during the month in which the U.S. sales are made it would have found third-country sales were below cost and would have had to initiate a COP investigation.

Respondent contends that the use of a company-wide depreciation figure, as advocated by petitioners in their later submissions, is less appropriate and accurate than the depreciation calculated for wire rod according to the factors of production actually used in the manufacture of wire rod and adopted by the Department. This figure is also consistent, respondent alleges, with petitioners' earlier calculations. As to petitioners' allegation that Acindar failed to account for the depreciation of vehicles and headquarters buildings, respondent points out that petitioners have failed to document or substantiate this allegation in any way and that, absent any documentation or substantiation, the Department must treat this allegation as pure conjecture. Respondent argues further that the Department acted properly in using the end-of-year exchange rate to convert Acindar's austral-denominated depreciation into dollars since the company had calculated depreciation in end-of-year australs fully indexed for inflation as required by Argentine accounting practices.

Department's Position

We agree with respondent. We used the semi-annual depreciation amount specified to wire rod as it is more appropriate than monthly, company-wide depreciation. This is because Acindar manufactures a variety of products in addition to wire rod. Furthermore, since the depreciation was indexed to the end of this semi-annual period, the depreciation amount used by the Department is representative of the monthly per-unit depreciation value. Therefore, we used a semi-annual depreciation for wire rod as a percentage of the cost of goods sold for wire rod to calculate the per-unit depreciation amount. We converted the end-of-year depreciation in australs to dollars using the end-of-period exchange rate. Finally, petitioners have not provided the Department with any basis for finding that Acindar failed to account for all applicable depreciation expenses.

Comment 3

Petitioners argue that the Department mistakenly added "reembolso" indirect tax rebates received by Acindar to third-country prices for purposes of comparing foreign market value ("FMV") to COP. Since the Argentine government has never issued any "reembolso" bonds to exporters, petitioners claim, excluding "reembolso" payments from FMV price would have resulted in below-cost sales and required the Department to initiate a COP investigation.

Acindar contends that, although no "reembolso" bonds have yet been issued, the Argentine government has issued certificates redeemable for bonds in the future. Acindar claims that evidence it has introduced on the record shows these certificates are traded on the Argentine stock market at prices ranging from 58 to 76 percent of face value, well in excess of the 15 percent that petitioners themselves, in earlier submissions, had claimed these certificates were worth. Therefore, Acindar asserts, it was proper for the Department to make a 15 percent addition for the "reembolso" to FMV for purposes of comparing FMV to COP.

Department's Position

We agree with respondent. The fact that the Argentine government has issued certificates in lieu of "reembolso" payments and that these certificates are publicly traded in that nation's financial markets constitutes sufficient evidence that the government intends to make these payments at some future date and that free-market forces have assigned a value to those certificates. We believe, therefore, that adding the value of the certificates relating to the "reembolso" payments constitutes an appropriate adjustment to FMV. Furthermore, under Argentine law, Acindar is allowed to accrue on its books up to 15 percent of

the absolute minimum value of its "reembolso" bond payments against current liabilities for Argentine import and export duties. This figure is consistent with the value assigned to the "reembolso" by petitioners in an earlier submission to the Department. Under the circumstances, we believe that the 15-percent value assigned to the "reembolso" was a conservative estimate and that it was proper to add that figure to FMV for purposes of comparison with COP.

Final Results of the Review

As a result of our review, we determine that no dumping margin exists. The Customs Service, therefore, shall not require a cash deposit for entries of the subject merchandise from Argentina during the review period. Furthermore, the Customs Service shall not require a cash deposit for any future entries of this merchandise from any producer and/or exporter not covered in the original investigation or this administrative review, whose first shipment occurred after October 31, 1989, and who is unrelated to the reviewed firm or any previously investigated firm.

These deposit requirements are effective for all shipments of carbon steel wire rod from Argentina which are entered, or withdrawn from warehouse, for consumption, or or after the date of publication of the final results of this administrative review. This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22 of the Commerce Department's regulations (19 CFR 353.22).

Dated: September 10, 1991.

Eric T. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91-22364 Filed 9-16-91; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-032]

Large Power Transformers From Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On July 19, 1991, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on large power transformers from Japan. These final results of review cover one manufacturer/exporter of this merchandise for the period from June 1, 1989, through May 31, 1990. The review indicates that no shipments of the subject merchandise took place during the review period. Although we gave interested parties an opportunity to comment on the preliminary results, no comments were received by the Department. Therefore, the margin presented in the preliminary results remains unchanged.

EFFECTIVE DATE: September 17, 1991.

FOR FURTHER INFORMATION CONTACT: Joseph Hanley or Paul McGarr, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-4733.

SUPPLEMENTARY INFORMATION:

Background

On July 19, 1991, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping finding (37 FR 11773, June 14, 1972) on large power transformers from Japan in the **Federal Register** (56 FR 33259). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

Imports covered by the review are shipments of large power transformers; that is, all types of transformers rated 10,000 kVA (kilovolt/amperes) or above, by whatever name designated, used in the generation, transmission, distribution, and utilization of electric power. The term "transformers" includes, but is not limited to, shunt reactors, autotransformers, rectifier transformers, and power rectifier transformers. Not included are combination units, commonly known as rectiformers, if the entire integrated assembly is imported in the same shipment and entered on the same entry and the assembly has been ordered and invoiced as a unit, without a separate price for the transformer portion of the assembly. This merchandise is currently classifiable under the Harmonized Tariff Schedule (HTS) item numbers 8504.22.00, 8504.23.00, 8504.34.33, 8504.40.00, and 8504.50.00. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers one manufacturer/exporter of transformers, Fuji Electric Co., Ltd. (Fuji), during the period June 1, 1989, through May 31, 1990.

Final Results of Review

Although we gave interested parties an opportunity to comment on the preliminary results, no comments were received by the Department. Since Fuji reported that it made no shipments to the United States during the period of review, we determine to set the margin at zero percent, equal to the final results of the last review period in which Fuji made shipments.

As provided for in section 751(a)(1) of the Tariff Act, a cash deposit rate of zero percent will remain in effect for Fuji. The cash deposit rates for exporters covered in previous reviews remain unchanged. For any future entries of this merchandise from an exporter or manufacturer not covered in this or any previous review, and who is unrelated to any reviewed firm, a cash deposit of zero percent shall be required. These deposit requirements are effective for all shipments of Japanese large power transformers entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: September 4, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91-22363 Filed 9-16-91; 8:45 am]

BILLING CODE 3510-DS-M

[A-475-603]

Final Results of Antidumping Duty Administrative Review: Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From Italy

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

EFFECTIVE DAY: September 17, 1991.

FOR FURTHER INFORMATION CONTACT: Julie Anne Osgood or Carole Showers, Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, 20230; telephone: (202) 377-0167 and 377-3217, respectively.

FINAL RESULTS:

Case History

On August 14, 1987, the Department published in the **Federal Register** (52 FR

30417) the antidumping duty order on tapered roller bearings and parts thereof, finished or unfinished, ("TRBs") from Italy. On July 3, 1991, the Department of Commerce ("the Department") published in the **Federal Register** (56 FR 30555) the preliminary results of this administrative review. The review covers one manufacturer/exporter of this merchandise to the United States, Gnutti Carlo, S.p.A. ("Gnutti"), for the period August 1, 1989, through July 31, 1990. We gave interested parties an opportunity to comment on the preliminary results. Neither petitioner nor respondents submitted comments. We have now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended ("the Act").

Scope of Review

The products covered by this review are tapered roller bearings and parts thereof, finished or unfinished, including flange, take-up cartridge, and hanger units incorporating tapered roller bearings, and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. TRBs and parts thereof are currently classifiable under subheadings 8483.90.30, 8483.90.80, 8482.20.00, 8482.99.30, 8482.99.30.50, 8483.20.40, 8483.20.80, and 8483.90.20 of the Harmonized Tariff Schedule ("HTS"). Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Such or Similar Merchandise

Gnutti sold TRBs as separate cup and cone components in the United States, while in its home market it sold sets composed of cups and cones that are identical to those sold separately in the United States. In order to compare the sale of a cup or cone in the United States to that of a complete set in the home market, we adjusted the home market price for a set by the ratio of the direct manufacturing cost of the cup or cone to that of the complete set.

Period of Review

This review covers shipments made to the United States from August 1, 1989, through July 31, 1990.

United States Price

We based United States price on purchase price for all of Gnutti's sales, in accordance with section 772(b) of the Act, both because these sales were made directly to unrelated parties prior to the date of importation into the United States and because exporter's sales price (ESP) methodology was not indicated by other circumstances.

We calculated purchase price based on packed, ex-factory prices. In accordance with section 772(d)(1)(C) of the Act, we added to the United States price the amount of the Italian value-added tax that would have been collected if the merchandise had not been exported.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we determined that there were sufficient home market sales by Gnutti to form the basis for foreign market value. In accordance with 19 CFR 353.58, we based foreign market value on sales to original equipment manufacturers (OEMs) in the home market, since all sales for export to the United States were at this level of trade. Gnutti requested that we further limit our comparisons to a single category of OEM customers in the home market. We did not do this because Gnutti did not demonstrate that the different categories of OEM customers constituted different levels of trade.

We used ex-factory home market prices for the comparison. We deducted home market packing costs and added U.S. packing costs. We made a circumstance of sale adjustment for differences in credit expenses in accordance with 19 CFR 353.56. We also made a circumstance of sale adjustment for differences in the amounts of value-added taxes. We made an adjustment for commissions when paid in the home market in accordance with 19 CFR 353.56(b). The commission adjustment includes the social security tax paid by Gnutti on behalf of the commission agent. Gnutti did not incur any indirect selling expenses on sales to the United States. Therefore, we did not offset commissions paid on home market sales.

We recalculated credit to reflect the actual number of days between shipment date and payment date rather than the number of days allowed under the terms of payment.

Currency Conversion

We made currency conversions in accordance with 19 CFR 353.60(a). All currency conversions were made at the rates certified by the Federal Reserve Bank.

Final Results of the Review

As a result of our review, we determine that the following margin exists for the period August 1, 1989, through July 31, 1990:

Manufacturer/exporter	Margin (percent)
Gnutti Carlo S.p.A.	49.06

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of these final results of this administrative review for all shipments of the subject merchandise from Italy entered, or withdrawn from warehouse, for consumption on or after that publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for any shipments of this merchandise manufactured or exported by manufacturers/exporters not covered in this review but specifically covered in the final determination of sales at less than fair value will continue to be the rate published in that final determination; (2) the cash deposit rate for Gnutti will be 49.06 percent; and (3) the cash deposit rate for all other exporters/producers shall be 49.06 percent for shipments of TRBs. This is the rate found for Gnutti in the current review. These deposit requirements shall remain in effect until publication of the final results of the next administrative review. This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: September 3, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91-22365 Filed 9-16-91; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of issuance of an amended export trade certification of review, application no. 89-3A016.

SUMMARY: The Department of Commerce, has issued a third amendment to the Export Trade Certificate of Review granted to the National Geothermal Association. Notice of issuance of the Certificate was published in the **Federal Register** on

February 9, 1990 (55 FR 4647) and notices concerning the two previous amendments were published on November 15, 1990 (55 FR 47784) and on April 22, 1991 (56 FR 16328), respectively.

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 377–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing title III are found at 15 CFR part 325 (1990) (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the Federal Register. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

Export Trade Certificate of Review No. 89–00016 was issued to the National Geothermal Association (NGA) on February 5, 1990. Two previous amendments to add additional Members to the Certificate were issued on November 7, 1990 and on April 17, 1991.

NGA has further amended its Certificate by: (1) Adding REEP, Inc. and USGIC Dominica, L.P., both of Bethesda, MD, as "Members" of the Certificate; and (2) Revising paragraphs 1, 6, 7, and 8 of the Export Trade Activities and Methods of Operation section of the Certificate as follows:

1. Engage in joint selling arrangements for the sale of Products and/or Services in Export Markets, such as joint marketing, negotiations, offering, bidding and financing; and allocate sales resulting from such arrangements.

6. Coordinate the development of projects in Export Markets, such as project identification, project financing, exploration, scientific and/or technical assessment, transportation and/or delivery, installation, construction, operations, servicing, ownership and transfer of project ownership; and establish joint warranty, service, parts warehousing, and training centers related to the foregoing.

7. Engage in joint promotional activities, such as advertising, demonstrations, field trips, and trade shows and trade missions; and bring together, from time to time, groups of Members to plan and discuss how to fulfill technical and commercial Product and Service requirements of specific export customers in order to develop existing or new Export Markets.

8. Establish and operate jointly owned subsidiaries of other joint venture entities owned exclusively by Members for the purposes of engaging in the Export Trade Activities and Methods of Operation herein other than the licensing of associated Technology Rights pursuant to paragraph 15. NGA and/or one or more of its Members may establish and operate joint ventures for operations in Export Markets with non-Members, including (a) public-sector foreign corporations and other foreign governmental entities, and/or (b) private-sector foreign entities such as corporations.

EFFECTIVE DATE: June 13, 1991.

A copy of the amended Certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, room 4102, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230.

Dated: September 11, 1991.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 91–22362 Filed 9–16–91; 8:45 am]

BILLING CODE 3510–DR–M

Columbia University et al.; Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4204, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 91–079. *Applicant:* Columbia University, New York, NY 10032. *Instrument:* Electron Microscope, Model JEM–100SX, *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 56 FR 30558, July 3, 1991. *Order Date:* March 27, 1991.

Docket Number: 91–083. *Applicant:* Fox Chase Cancer Center, Philadelphia, PA 19111. *Instrument:* Electron Microscope, Model EM–900. *Manufacturer:* Carl Zeiss, West Germany. *Intended Use:* See notice at 56 FR 28372, June 20, 1991. *Order Date:* March 8, 1991.

Docket Number: 91–085. *Applicant:* The Christ Hospital, Cincinnati, OH 45219. *Instrument:* Electron Microscope, Model JEM–100CXII. *Manufacturer:* JEOL Ltd., Japan, *Intended Use:* See notice at 56 FR 30558, July 3, 1991. *Application Received by Commissioner of Customs:* June 5, 1991.

Docket Number: 91–089. *Applicant:* Idaho State University, Pocatello, ID 83209. *Instrument:* Electron Microscope, Model EM 900. *Manufacturer:* Carl Zeiss, West Germany. *Intended Use:* See notice at 56 FR 30558, July 3, 1991. *Order Date:* March 14, 1991.

Docket Number: 91–090. *Applicant:* Columbia University, New York, NY 10032. *Instrument:* Electron Microscope, Model JEM–1200EX. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 56 FR 30558, July 3, 1991. *Order Date:* March 27, 1991.

Docket Number: 91–093. *Applicant:* Trustees of Boston University, Boston, MA 02118–2394. *Instrument:* Electron Microscope Model CM 12. *Manufacturer:* N.V. Philips, The Netherlands, *Intended Use:* See notice at 56 FR 32405, July 16, 1991. *Order Date:* May 16, 1991.

Docket Number: 91–096. *Applicant:* Hamilton College, Clinton, NY 13323. *Instrument:* Electron Microscope, Model JEM 1200EXII/SEG/DP/DP. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 56 FR 34186, July 26, 1991. *Order Date:* May 31, 1991.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. *Reasons:* Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 91–22367 Filed 9–16–91; 8:45 am]

BILLING CODE 3510–PS–M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

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

Title, Applicable From, and Applicable OMB Control Number: 1991 Reserve Components Survey of Spouses.

Type of Request: Expedited submission—Approval Date Requested: Oct 15. 1991.

Average Burden Hours/Minutes per Response: 20 minutes.

Responses per Respondent: One.

Number of Respondents: 26,325.

Annual Burden Hours: 8,775.

Annual Responses: 26,325.

Needs and Uses: The purpose of this survey is to assess the impact of Operation Desert Shield/Desert Storm on reserve families. This survey along with the 1991 Reserve Components Survey of Officer and Enlisted Personnel together will assess intentions with regard to staying in the reserves and perspective on the role in the war, treatment by the Department, and the impact on families and finances.

Affected Public: Individuals with a spouse in the National Guard/Reserves.

Frequency: One-time only.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, VA 22202–4302

Dated: September 12, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91–22344 Filed 9–16–91; 8:45 am]

BILLING CODE 3810–01–M

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

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

Title, Applicable Form, and Applicable OMB Control Number: DoD FAR Supplement, part 211, Acquisition and Distribution of Commercial Products; OMB Control Number 0704–0318.

Type of Request: Revision of a currently approved collection.

Average Burden & Recordkeeping Burden Hours per Response: 2.

Responses per Respondent: 1.

Number of Respondents: 60.

Annual Burden Hours: 120.

Annual Responses: 60.

Needs and Uses: This request concerns information collection requirements required for the simplified contract for the acquisition of commercial items by DoD. A new solicitation provision in the DoD FAR Supplement DFARS 252.211–7012, "Certifications—Commercial Items—Competitive Acquisitions" requires offerors responding to a solicitation to identify Government production and research property, if any, that will be used in conjunction with production of the commercial item offered. The information submitted will be used by the Government to insure that offerors who are in possession of Government production and research property are not provided an unfair advantage over competitors.

Affected Public: Businesses or other for-profit, Non-Profit Institutions, and Small Businesses or organizations.

Respondent's Obligation: Required to obtain a benefit.

OMB Desk Officer: Mr. Peter Weiss.

Written comments and recommendations on the information collection should be sent to Mr. Weiss at Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

A copy of the information collection proposal may be obtained from, Mr. Pearce, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202–4302, telephone (202) 746–0933.

Dated: September 12, 1991.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91–22345 Filed 9–16–91; 8:45 am]

BILLING CODE 3810–01–M

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

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

Title, Applicable Form, and Applicable OMB Control Number: Evaluation of CHAMPUS Reform (CRI and CAM Demonstrations) Beneficiary Survey.

Type of Request: Reinstatement of previously approved collection for which approval has expired.

Average Burden Hours/Minutes per Response: 18 minutes.

Responses per Respondent: 1.

Number of Respondents: 7,000.

Annual Burden Hours: 2,100.

Annual Responses: 7,000.

Needs and Uses: The Department of Defense has undertaken to demonstrate major reforms to CHAMPUS, called the CHAMPUS Reform Initiative and the Catchment Area Management Demonstration. Evaluation of the impact of the demonstration will rely heavily on DoD data systems, but a beneficiary survey will be required to supply crucial missing data on access to care, costs, and beneficiary satisfaction.

Affected Public; Individuals or Households.

Frequency: Two individual surveys.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Joseph F. Lackey.

Written comments and recommendations on the proposed information collection should be sent to Mr. Lackey at the Office of Management and Budget, Desk Officer, room 3002, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written request for copies of the information collection proposal should be sent to Mr. William P. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, VA 22202–4302.

Dated: September 12, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-22340 Filed 9-16-91; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review.

ACTION: Notice

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

Title, Applicable Form, and Applicable OMB Control Number: Air Force ROTC College Scholarship Application; AF Form 113; OMB No. 0701-0101.

Type of Request: Revision.

Average Burden Hours/Minutes per Response: 42 Minutes.

Responses per Respondent: 1.

Number of Respondents: 16,000.

Annual Burden Hours: 11,200.

Annual Responses: 16,000.

Needs and Uses: This application is used by the Air Force ROTC Central Scholarship Selection Board to evaluate applications for a college scholarship. Respondents are high school students or graduates between the ages of 16 and 21 years.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202-4302.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Dated: September 12, 1991.

[FR Doc. 91-22347 Filed 9-16-91; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

Secrecy/Nondisclosure Agreements; Clarification of the Rights and Obligations of All NSA Employees, Former NSA Employees, and Other Individuals Who Signed NSA Secrecy Agreements Prior to the Date of This Notice

AGENCY: National Security Agency, DOD.

ACTION: Notice.

In accordance with the Treasury, Postal Service, and General Government Appropriations Act for Fiscal Year 1991, effective November 5, 1990, the following language shall be considered to be incorporated into and a part of any NSA-sponsored regulation, policy, form, or nondisclosure agreement executed by any NSA employee, former NSA employee, or any other individual prior to the date of this notice.

These restrictions are consistent with and do not supersede, conflict with or otherwise alter the employee obligations, rights or liabilities created by Executive Order 12356; section 7211 of title 5, United States code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents), and statutes which protect against disclosures that may compromise national security, including section 641, 793, 794, 798 and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions and liabilities created by said Executive Order and listed statutes are incorporated into this Agreement and are controlling.

Through this notice, all those persons who have executed or will execute NSA nondisclosure agreements prior to publication of this notice are advised that their continued access to classified information will be governed by the nondisclosure agreement they signed, and such nondisclosure agreements will be interpreted consistent with the new language. This new language is consistent with the provisions of previously executed nondisclosure forms, and nondisclosure agreements executed prior to the date of this notice remain fully valid and enforceable. This language in no way changes the substantive law with respect to the rights and obligations created by any nondisclosure agreements, but rather merely provides that those rights and obligations are to be read consistently with the Executive Order and statutes identified in the new language.

Any person who executed a nondisclosure agreement prior to the publication of this notice does not need to execute a new agreement. However, he or she may elect to sign and substitute a new agreement, containing the prescribed language, for the previously signed agreement. Persons executing nondisclosure agreements in the future will sign statements containing the prescribed language. Relevant nondisclosure agreements, regulations and policies will be revised to include the new language.

For the purposes of this notice, the terms "Secrecy Agreement" and "nondisclosure agreement" shall be interchangeable and shall apply to all agreements executed by those seeking access to classified information.

Dated: September 12, 1991.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-22348 Filed 9-16-91; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meetings: 2 October 1991.

Time: 0900-1630 hours.

Place: U.S. Army Aviation Systems Command, St. Louis, Missouri.

Agenda: The Army Science Board (ASB) members of the Ad Hoc Study Group on Improving the Quality of Science and Engineering in the Army will meet with the Commanders and staff members of the U.S. Army Aviation Systems Command and U.S. Army Troops Support Command to discuss their efforts to capture indicators of quality of research and development (R&D) work and personnel, and improve the quality of engineering and science in the Army. This meeting will be open to the public. Any interested person may attend, appear before, or file statements

with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695–0781/0782.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 91–22354 Filed 9–16–91; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Intent to Repay to the Louisiana State Department of Education Funds Recovered as a Result of Final Audit Determinations

AGENCY: Department of Education.

ACTION: Notice of intent to award grantback funds.

SUMMARY: Under section 456 of the General Education Provisions Act (GEPA), 20 U.S.C. 1234e (1982), the U.S. Secretary of Education (Secretary) intends to repay to the Louisiana State Department of Education, the State educational agency (SEA), $495,879, an amount that is approximately 74 percent of the funds recovered by the U.S. Department of Education (Department) under chapter 2 of the Education Consolidation and Improvement Act (ECIA). This notice describes the SEA's plans for use of the repaid funds and the terms and conditions under which the Secretary intends to make those funds available. The notice invites comments on the proposed grantback.

DATES: All comments must be received on or before October 17, 1991.

ADDRESSES: Comments concerning the grantback should be addressed to Mrs. Alicia Coro, Director, School Improvement Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202–6439.

FOR FURTHER INFORMATION CONTACT: Mrs. Alicia Coro, Telephone: (202) 401–0657. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC area code, telephone 708–9330) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION:

A. Background

The Department has recovered $671,166 plus interest from the SEA in full satisfaction of certain claims arising from audits conducted by the Louisiana Office of Legislative Auditor under the Single Audit Act of 1984. The audits in question covered the SEA's administration of Federal programs for fiscal years (FYs) 1984–1986.

The claims at issue involved the SEA's administration of chapter 2 of the ECIA. Specifically, the final audit determinations of the Assistant Secretary for Elementary and Secondary Education (Assistant Secretary) found that chapter 2 funds had been spent in violation of section 585(b) of chapter 2, which required that chapter 2 funds be used only to supplement and, to the extent practical, increase the level of funds that would be made available from non-Federal sources in the absence of chapter 2 funds and in no case supplant funds from non-Federal sources. The SEA appealed the determinations of the Assistant Secretary to the Education Appeal Board (EAB). The EAB issued initial decisions that sustained the Assistant Secretary's determinations and those decisions became the Secretary's final decisions on November 6, 1988 and July 4, 1989, respectively. As a result, the SEA repaid $671,166 plus interest and all claims arising from these determinations were resolved.

Although the final audit determinations resulted from improper expenditures of chapter 2 ECIA funds, that program has been repealed. Subsequent audit work conducted in FY 1988 revealed no violations as previously noted had occurred. In addition, the SEA has changed its procedures for allocating chapter 2 funds. Prior to the audit, chapter 2 funds were administered by the office of the State Superintendent. All chapter 2 funds are now administered by the Bureau of Consolidated Education Programs. All SEA requests for chapter 2 funds are channeled through the chapter 2 staff to determine the eligibility of the request. These requests are also reviewed by the chapter 2 State Advisory Committee which gives recommendations on which projects might be funded. Finally, the State Board of Education has final approval of all chapter 2 SEA subgrants.

B. Authority for Awarding a Grantback

Section 456(a) of GEPA, 20 U.S.C. 1234e(a) (1982), provides that whenever the Secretary has recovered funds following a final audit determination with respect to an applicable program, the Secretary may consider those funds to be additional funds available for the program and may arrange to repay to the SEA or local educational agency (LEA) affected by that determination an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this "grantback" arrangement if the Secretary determines that the—

(1) Practices and procedures of the SEA or LEA that resulted in the audit determination have been corrected, and the SEA or LEA is, in all other respects, in compliance with requirements of the applicable program;

(2) The SEA has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement which meets the requirements of the program, and, to the extent possible, benefits the population that was affected by the failure to comply or by the misexpenditures that resulted in the audit exception; and

(3) Use of funds to be awarded under the grantback arrangement in accordance with the SEA's plan would serve to achieve the purpose of the program under which the funds were originally granted.

C. Plan for Use of Funds Awarded Under a Grantback Arrangement

Pursuant to section 456(a)(2) of GEPA, the SEA has applied for a grantback of $495,879 and has submitted a plan for use of those funds for allowable activities and costs under chapter 2 of title I of the Elementary and Secondary Education Act of 1965, as amended. The SEA proposes to use the funds to supplement the level of technical assistance provided to LEAs for the effective implementation of the chapter 2 program. Specifically, the SEA would use $150,000 of the grantback funds to fund a State-wide study on school-based management focusing on effective schools programs, which would be used to assist in determining the most important factors in improving education in Louisiana. The SEA also plans to use $280,000 of grantback funds to fund four regional programs to train parents and teachers to work effectively with pre-school age children. These programs would also foster community and business partnerships for involving parents in the education of their children. In addition, curriculum materials would be developed for use by participating parents. All these activities would supplement the activities of four regional programs to be funded by the State. Finally, the SEA would use $65,879 to develop a process to assess the State's numerous dropout programs in order to determine the effectiveness of these programs. Programs identified as promising would be validated and, if found effective, disseminated.

D. The Secretary's Determinations

The Secretary has carefully reviewed the plans submitted by the SEA. Based upon that review, the Secretary has determined that the conditions under section 456 of GEPA have been met.

These determinations are based upon the best information available to the Secretary at the present time. If this information is not accurate or complete, the Secretary is not precluded from taking appropriate administrative action. In finding that the conditions of section 456 of GEPA have been met, the Secretary makes no determination concerning any pending audit recommendations or final audit determinations.

E. Notice of the Secretary's Intent to Enter Into a Grantback Arrangement

Section 456(d) of GEPA requires that, at least 30 days before entering into an arrangement to award funds under a grantback, the Secretary must publish in the Federal Register a notice of intent to do so, and the terms and conditions under which the payment will be made.

In accordance with section 456(d) of GEPA, notice is hereby given that the Secretary intends to make funds available to the Louisiana SEA under a grantback arrangement. The grantback award would be in the amount of $495,879 which is approximately 74 percent of the recovered funds.

F. Terms and Conditions Under Which Payment Under a Grantback Arrangement Would Be Made

The SEA agrees to comply with the following terms and conditions under which payment under a grantback arrangement would be made:

(1) The funds awarded under the grantback must be spent in accordance with—

(a) All applicable statutory and regulatory requirements;

(b) The plan that the SEA submitted and any amendments to the plan that are approved in advance by the Secretary; and

(c) The budget that was submitted with the plan and amendments to the budget that are approved in advance by the Secretary.

(2) All funds received under the grantback arrangement must be obligated by September 30, 1992 in accordance with section 456(c) of GEPA.

(3) The SEA will, not later than January 1, 1993, submit a report to the Secretary that—

(a) Indicates that the funds awarded under the grantback have been spent in accordance with the proposed plan and approved budget, and

(b) Describes the results and effectiveness of the projects for which the funds were spent.

(4) Separate accounting records must be maintained documenting the expenditures of funds awarded under the grantback arrangement.

(5) Before funds will be repaid pursuant to this notice, the SEA must repay to the Department any debts that become overdue, or enter into a repayment agreement for those debts.

(Catalog of Federal Domestic Assistance Number 84.151, chapter 2 of title I of the Elementary and Secondary Education Act of 1965, as amended)

Dated: September 11, 1991.

Lamar Alexander,

Secretary of Education.

[FR Doc. 91–22249 Filed 9–16–91; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

DOE Field Office, Chicago; Award of Financial Assistance Based Upon Acceptance of an Unsolicited Application; the Pulp and Paper Research Institute of Canada

AGENCY: U.S. Department of Energy.

ACTION: Notice of financial assistance award based upon acceptance of an unsolicited application.

SUMMARY: The Department of Energy (DOE), announces that pursuant to DOE Financial Assistance Rules 10 CFR.14(f), it intends to award a grant to the Pulp and Paper Research Institute of Canada (PAPRICAN) in support of a project entitled, "Department of Kraft Black Liquor Recovery Process Based on Low Temperature Processing in Fluidized Beds". The anticipated overall objective of this project is to provide an enhanced understanding of the technology for recovering kraft pulping process chemicals and energy through an alternative process, which will assist industry in evaluating proposed operational and design changes, therefore improving thermal efficiency by as much as 5–7% and productivity of pulp by 10–20%.

SUPPLEMENTARY INFORMATION: The proposed award will provide for the development of alternative recovery processes on fundamental properties, spray systems and combustion research on black liquor. Alternative processes will have a substantial impact on energy usage in the pulp and paper industry. The potential energy savings are at least 0.10 QUADS. In North America alone the value of increased steam generation could exceed $200 million per year. The potential value of production capacity gains exceed $800 million.

The grant application is being accepted by DOE because the kraft pulping process is the dominant pulping process in the U.S. paper industry today. The project period for the grant award is approximately 14 months, expected to begin October of 1991. DOE plans to provide funding in the amount of $60,000.00 for this budget period.

FOR FURTHER INFORMATION CONTACT: Carla V. Harper, U.S. Department of Energy, DOE Field Office, Chicago, 9800 South Cass Avenue, Argonne, IL 60439. (708) 972–2842.

Issued in Chicago, Illinois on September 10, 1991.

Timothy S. Crawford,

Assistant Manager for Administration.

[FR Doc. 91–22359 Filed 9–16–91; 8:45 am]

BILLING CODE 6450–01–M

Chicago Field Office; Financial Assistance Award; Purdue Research Foundation

AGENCY: U.S. Department of Energy.

ACTION: Intent to award based on an unsolicited application.

SUMMARY: The Department of Energy announces that pursuant to the provisions of 10 CFR 600.14, it intends to award a grant based on an unsolicited application received from Purdue Research Foundation for research and development in the Production of Higher Value Chemicals from Food Process Wastes Using a Novel Fermentor-Separator.

The determination to make this award is based on the following information: A technical evaluation of the proposed project was performed pursuant to 10 CFR 600.14 (d) and (e). It is determined that the proposed project is meritorious based on the fact that it will provide value to all food processing companies with similar product waste streams. The probability of achieving the anticipated objectives are extremely high. The facilities and qualifications of the key personnel are appropriate. DOE knows of no other entity which is conducting or planning to conduct such an effort. This effort is considered suitable for noncompetitive financial assistance and a competitive solicitation would be inappropriate.

The DOE share of funding is estimated at $499,926.00 and shall be used to pay for salaries and wages, fringe benefits, equipment, travel, direct and indirect costs. The anticipated term

of the grant is September 23, 1991 through December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Frederick T. Sienko, U.S. Department of Energy, DOE Field Office, Chicago, Contracts Division, 9800 South Cass Avenue, Argonne, IL 60439 (708) 972-2115. Marlene M. Kolicius, U.S. Department of Energy, DOE Field Office, Chicago, 9800 South Cass Avenue, Argonne, IL 60439.

Issued in Chicago, Illinois on September 10, 1991.

Timothy S. Crawford,

Assistant Manager for Administration.

[FR Doc. 91-22358 Filed 9-16-91; 8:45 am]

BILLING CODE 6450-01-M

DOE Field Office, Chicago; Noncompetitive Award of Financial Assistance, Southern States Energy Board

AGENCY: Department of Energy.

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: The Department of Energy (DOE), DOE Field Office, Chicago, through the Atlanta Support Office, announces that pursuant to DOE Financial Assistance Rules 10 CFR 600.7(b)(2), it intends to award a grant to the Southern States Energy Board. The award represents the initial funding for a proposed program to implement strategies for conservation and renewable energy resource use in the sixteen Southern States and the Commonwealth of Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Charles Feltus, U.S. Department of Energy, Atlanta Support Office, 730 Peachtree Street, NE., Atlanta, Georgia 30308, (404) 347-2697.

SUPPLEMENTARY INFORMATION: The SSEB will create a committee on conservation and renewable energy to identify conservation and renewable energy options and develop strategies for implementing conservation and renewable energy initiatives to address regional and national concerns. The committee will create four task forces that will focus on specific areas. The task forces and some of the areas being proposed are:

—Integrated Resource Planning Task Force
—Hazardous Waste Task Force
—Renewable Energy Resources Task Force
—Waste-to-Energy and Recycling Task Force

The grant application is being accepted by DOE because the Southern States Energy Board uniquely has developed the organization and contacts with the Governors, legislative bodies and public utility regulatory Commissioners to conduct such a project. The initial project period for the grant award is a one-year period, expected to begin in September 1991. DOE plans to provide funding in the amount of $75,000.00.

Issued in Chicago, Illinois on September 10, 1991.

Timothy S. Crawford,

Assistant Manager for Administration.

[FR Doc. 91-22360 Filed 9-16-91; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 2230-005 Alaska]

City of Sitka; Availability of Environmental Assessment

September 10, 1991.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for amendment of license for the proposed Blue Lake Project located on Sawmill Creek (formerly the Medvetcha River) in Borough of Sitka, near Sitka, AK, and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the proposed project, with appropriate mitigation measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3104, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 91-22255 Filed 9-16-91; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7960-000 New Hampshire/ Vermont]

Wyoming Valley Hydro Partners, Ltd.; Declaring Application ready for Environmental Analysis

September 10, 1991.

Take notice that the application for license for the Wyoming Valley Project No. 7960, is ready for environmental analysis and comments are sought on the merits of the application.

The Commission directs, pursuant to § 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108 (May 20, 1991)), that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission by the comment date specified in this notice (including mandatory and recommended terms and conditions or prescriptions pursuant to sections 4(e), 18, 30(c) of the Federal Power Act (FPA), and section 405(d) of the Public Utility Regulatory Policies Act, the Fish and Wildlife Coordination Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, and other applicable statutes). All reply comments must be filed with the Commission within 45 days from the comment date.

Comment date: November 12, 1991.

All filings must: (1) bear in all capital letters the title "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to: Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list for this proceeding, and any affected resource agencies and Indian tribes.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008. Requests for additional procedures and replies to such requests

may be filed in accordance with 18 CFR 4.34(a) and (c).

Lois D. Cashell,

Secretary.

[FR Doc. 91-22253 Filed 9-16-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ92-1-4-000 and TM92-1-4-000]

Granite State Gas Transmission, Inc.; Proposed Changes in Rates

September 10, 1991.

Take notice that on September 6, 1991, Granite State Gas Transmission, Inc. (Granite State), 300 Friberg Parkway, Westborough, Massachusetts 01581-5039, tendered for filing with the Commission the revised tariff sheets listed below in its FERC Gas Tariff, Second Revised Volume No. 1 and First Revised Volume No. 2, containing changes in rates for effectiveness on October 1, 1991:

Second Revised Volume No. 1

Sixth Revised Sixth Revised Sheet No. 21
Third Revised Sheet No. 22
Sixth Revised Sheet No. 25

First Revised Volume No. 2

First Revised Sheet No. 29

According to Granite State, the proposed rate changes reflect its projected purchase gas costs and sales for the fourth quarter of 1991 and other adjustments to sales, storage and transportation services to reflect the effect of the Annual Charges Adjustment for the fiscal year beginning October 1, 1991.

It is stated that the proposed rate changes are applicable to Granite State's jurisdictional services rendered to Bay State Gas Company and Northern Utilities, Inc. Granite State further states that copies of its filing were served upon its customers and the regulatory commissions of the States of Maine, Massachusetts and New Hampshire.

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 Procedures (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before September 17, 1991. 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 to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-22298 Filed 9-16-91; 8:45 am]

BILLING CODE 6717-01-M

[DOCKET NO. TO92-1-46-000]

Kentucky West Virginia Gas Co.; Proposed Change in FERC Gas Tariff

September 10, 1991.

Take notice that Kentucky West Virginia Gas Company (Kentucky West) on September 5, 1991, tendered for filing with the Federal Energy Regulatory Commission (Commission) an Out-of-Cycle PGA filing, which includes Thirty-first Revised Sheet No. 41 to its FERC Gas Tariff, Second Revised Volume No. 1, to become effective October 1, 1991. The revised tariff sheet reflects a current increase of $.4000 per Dth in the average cost of purchased gas resulting in a Weighted Average Cost of Gas of $1.4691 per Dth.

Kentucky West states that, effective October 1, 1991, pursuant to its obligations under various gas purchase contracts, it has specified a total price of $1.4619 per Dth, inclusive of all taxes and any other production-related cost add-ons, that it would pay under these contacts.

Pursuant to § 154.51 of the Commission's regulations, Kentucky West requests waiver of the thirty day notice requirement to permit the tariff sheet attached hereto to become effective on October 1, 1991. In addition, Kentucky West requests waiver of § 154.304 of the Commission's regulations and any other provisions of the Commission's regulations necessary to permit the attached tariff sheet to become effective on October 1, 1991.

Kentucky West states that, by its filing, or any request or statement made therein, it does not waive any rights to collect amounts, nor the right to collect carrying charges applicable thereto, to which it is entitled pursuant to the mandate of the United States Court of Appeals for the Fifth Circuit issued on March 6, 1986, in *Kentucky West Virginia Gas Co.* v. *FERC*, 780 F.2d 1231 (5th Cir. 1986), or to which it is or becomes entitled pursuant to any other judicial and/or administrative decisions.

Kentucky West states that a copy of its filing has been served upon each of its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.211 and 385.214 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 September 17, 1991. 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. 91-22259 Filed 9-16-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TM92-2-17-000 and TM91-13-17-000]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

September 10, 1991.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on September 5, 1991 tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies each of the following tariff sheets:

Proposed to be Effective July 1, 1991

Sub Revised 33rd Revised Sheet No. 50.2

Proposed to be Effective August 1, 1991

Sub Revised 35rd Revised Sheet No. 50.2

Proposed to be Effective October 1, 1991

Sub Thirty-sixth Revised Sheet No. 50.2

Texas Eastern states that these sheets are being filed pursuant to Section 4.F of Texas Eastern's Rate Schedules SS-2 and SS-3 to flow through changes in CNG Transmission Corporation's (CNG) Rate Schedule GSS rates which underlie Texas Eastern's Rate Schedules SS-2 and SS-3.

Texas Eastern states that on August 22, 1991 CNG made a compliance filing in Docket Nos. RP88-211, *et al.*, which revised Rate Schedule GSS rates effective July 1, 1991.

Texas Eastern states that it is also submitting as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies of the following tariff sheet:

Proposed to be Effective May 1, 1991

3rd Sub 33rd Revised Sheet No. 50.2

Texas Eastern states that it is filing 3rd Sub 33rd Revised Sheet No. 50.2 effective May 1, 1991 solely to reflect the correct supersession of 2nd Sub Alt 32nd Revised Sheet No. 50.2 filed on August 1, 1991 which was effective April 16, 1991.

Texas Eastern states that copies of the filing were served on Texas Eastern's jurisdictional customers and interested state regulatory agencies.

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 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 17, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-22260 Filed 9-16-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI91-123-000]

Omega Pipeline Co.; Application for a Blanket Certificate with Pregranted Abandonment

September 9, 1991.

Take notice that on August 30, 1991, Omega Pipeline Company (Omega) of 2400 Fourth National Bank Building, Tulsa, Oklahoma 74119, filed an application pursuant to Section 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for an unlimited-term blanket certificate with pregranted abandonment authorizing sales in interstate commerce for resale of all NGPA categories of natural gas which are subject to the Commission's jurisdiction under the NGA, natural gas sold under any existing or subsequently approved pipeline blanket certificate authorizing interruptible sales of surplus system supply (ISS gas), any imported natural gas, and any natural gas purchased from a local distribution company or intrastate pipeline company, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 26, 1991, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition 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). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Omega to appear or to be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 91-22252 Filed 9-16-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-1-78-000]

Overthrust Pipeline Co.; Tariff Filing

September 10, 1991.

Take notice that on September 9, 1991, Overthrust Pipeline Company pursuant to § 154.38(d)(6) and part 382 of the Commission's Regulations, tendered for filing and acceptance Twelfth Revised Sheet No. 6 and First Revised Sheet No. 4 to Original Volume Nos. 1 and 1-A of its FERC Gas Tariff.

Overthrust states that this filing implements the annual charge unit rate of $0.0024 per Mcf in each of its transportation rate schedules. Overthrust requests an effective date of October 1, 1991, for the tendered tariff sheets.

Overthrust states that copies of the filing were served on Overthrust's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 17, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-22257 Filed 9-16-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-7083-002, et al.]

OXY USA Inc., et al.; Applications for Certificates and Abandonment of Service [1]

September 10, 1991.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all was more fully described in the respective applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 26, 1991, file with Federal Energy Regulatory Commission, Washington, DC 20426, a petition 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). All protest filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell

Secretary.

Filing Code

A—Initial Service
B—Abandonment
C—Amendment to add acreage
D—Assignment of acreage
E—Succession
F—Partial Succession

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Description
G-7083-002 B 8-20-91	OXY USA Inc., Company, P.O. Box 300, Tulsa, OK 74102.	Equitrans, Inc., Gauley Mountain Coal Co., "A" Lease, Fayette County, West Virginia.	Lease was terminated by operation of law and ownership reverted to Imperial Colliery Company effective 12-31-78.
CI62-1251-018 B 8-16-91	Oryx Energy Company, P.O. Box 2880, Dallas, TX 75221-2880.	Arkla Energy Resources, Kinta Field, La Flore County, Oklahoma.	Lease expired, well plugged and abandoned.

[FR Doc. 91-22251 Filed 9-16-91; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TM92-1-55-000]

Questar Pipeline Co.; Tariff Filing

September 10, 1991.

Take notice that on September 9, 1991, Questar Pipeline Company pursuant to 18 CFR 2.104, 154.38(d)(6) and part 382 of the Commission's Regulations, tendered for filing and acceptance the following tariff sheets of its FERC Gas Tariff:

Original Volume No. 1

Second Revised Thirteenth Revised Sheet No. 12
Third Revised Sheet No. 12-A

Original Volume No. 1-A

First Revised Fourth Revised Sheet No. 5

Original Volume No. 2-A

First Revised Sheet No. 4

Original Volume No. 3

First Revised Fifth Revised Sheet No. 8

Questar states that this filing incorporates into its sales and transportation and into Clay Basin Storage Division's storage rates the annual charge unit rate of $0.0024 per Mcf and the elimination of the $0.00039 per Dth volumetric surcharge applicable to the recovery of carrying costs associated with take-or-pay buyout/buydown costs. Questar requests an effective date of October 1, 1991, for the tendered tariff sheets.

Questar states that copies of the filing were served on Questar's jurisdictional customers and interested state regulatory agencies.

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 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed or or before September 17, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-22256 Filed 9-16-91; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP91-2819-000]

Transcontinental Gas Pipe Line Corp.; Extension of Time

September 10, 1991.

On September 5, 1991, Sun Refining and Marketing Company (Sun R&M) filed a motion for an extension of time to file protests and motions to intervene in response to the Commission's Notice of Application issued August 23, 1991, in the above-docketed proceeding. In its motion, Sun R&M states that additional time is needed to allow Sun R&M and Transcontinental Gas Pipe Line Corporation (Transco) to explore settlement possibilities in this proceeding. Sun R&M further states that additional time is required because of the press of other business involving company personnel.

Upon consideration, notice is hereby given that an extension of time for filing protests and motions to intervene is granted to and including October 4, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 91-22254 Filed 9-16-91; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. RP91-152-000 and RP91-152-001]

Williams Natural Gas Co.; Informal Settlement Conference

September 10, 1991.

Take notice that an informal settlement conference will be convened in this proceeding on Thursday, September 19, 1991, at the offices of the Federal Energy Regulatory Commission, 810 First Street NE., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced dockets. The conference will commence following the scheduled prehearing conference.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations, 18 CFR 385.214 (1991).

For additional information, contact Russell B. Mamone at (202) 208-0744 or James A. Pederson at (202) 208-2158.

Lois D. Cashell,

Secretary.

[FR Doc. 91-22262 Filed 9-16-91; 8:45 am]
BILLING CODE 6717-01-M

Office of Energy Research

Fusion Energy Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Fusion Energy Advisory Committee (FEAC).

Date and Time: Tuesday, September 24, 1991—9 a.m.-5 p.m.; Wednesday, September 25, 1991—9 a.m.-5 p.m.

Place: U.S. Department of Energy; 1000 Independence Avenue, room 1E-245, Washington, DC 20585.

Contract: Michael D. Crisp, U.S. Department of Energy, GTN, Office of Fusion Energy (ER-51); Office of Energy Research; Washington, DC 20585, Telephone: 301-353-4941.

Purpose of the Committee: To provide advice on a continuing basis to the Department of Energy on the complex scientific and technical issues that arise in the planning management, and implementation of its Fusion Energy Program .

Tentative Agenda

Tuesday, September 24, 1991

- Fusion Energy Program Briefing
- Charges to the Committee
- Public Comment (10 Minute Rule)

Wednesday, September 25, 1991

- Further discussion—Charges to the Committee
- Public Comment (19 Minute Rule)

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact: Michael D. Crisp at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will be facilitate the orderly conduct of business.

The meeting was previously scheduled for September 19 and 20, 1991, and was published in 56 FR 42610, August 28, 1991. This meeting was canceled due to scheduling conflicts and is hereby rescheduled for September 24 and 25, 1991.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on September 11, 1991.

Howard H. Raiken,

Advisory Committee, Management Officer.

[FR Doc. 91–22356 Filed 9–16–91; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3997–4]

Solicitation for Research Grant Proposals, 1992 Exploratory Research Grants

AGENCY: Environmental Protection Agency.

ACTION: General research grant solicitation.

SUMMARY: The U.S. Environmental Protection Agency (EPA), through its Office of Exploratory Research (OER), is seeking grant applications to conduct exploratory environmental research in biology, chemistry, physics, engineering, or socioeconomics. Investigations are sought in these research disciplines which focus on any aspect of pollution identification, characterization, abatement or control, or address the effects of pollutants on the environment. In addition, research is sought on environmental policy and its social and economic consequences.

This solicitation only concerns the research grants administered by EPA's Office of Exploratory Research, and outlines procedures for receiving grant assistance from that office.

In addition to this general annual solicitation, applications are sought periodically through more narrowly defined proposal requests, referred to as Requests for Applications (RFA). While this document does not contain any FRA solicitations, it does provide an announcement of tentative FRA titles and approximate issue dates for each proposed RFA.

DATES: The original and eight copies of the application must be received by:

Biology—March 16, 1992
Chem/Physics—Air—March 6, 1992
Chem/Physics—Water/Soil—March 16, 1992
Engineering—April 16, 1992
Socioeconomics—March 25, 1992

ADDRESSES: Applications must be sent to: Grants Operations Branch, Grants Administration Division (PM–216F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

Biology—Clyde Bishop, by telephone: 202/260–7473
Chem/Physics—Air—Deran Pashayan, by telephone: 202/260–7473
Chem/Physics—Water/Soil—Louis Swaby, by telephone: 202/260–7473
Engineering—Louis Swaby, by telephone: 202/260–7473
Socioeconomics—Robert Papetti, by telephone: 202/260–7473

SUPPLEMENTARY INFORMATION:

Application Procedures

General Grants Program

Application forms, instructions, and other pertinent information for assistance programs are available in the EPA Research Grants Application/Information Kit. Interested investigators should review the materials in this kit before preparing an application for assistance. The kits are available from:

Grants Operations Branch, Grants Administration Division (PM–216F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260–5266.

or

Office of Exploratory Research (RD–675), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260–7473.

Proposed projects must be investigative research. Proposals will not be accepted that are state-of-the-art or market surveys, development of proven concepts, or the preparation of materials and documents, including process designs or instruction manuals.

Fully developed research grant applications, prepared in accordance with instructions in the Application for Federal Assistance Form SF–424, should be sent the Grants Operations Branch at the above address. One copy of the application with original signatures plus eight copies are required. Informal, incomplete or unsigned proposals will not be considered

The following special instructions apply to all applicants responding to this solicitation:

Applications must be identified by printing "OER–92" in the upper right hand corner of Application Form SF–424. The absence of this identifier from an application may lead to delayed processing or misassignment of the application.

The project narrative section of the application must not exceed twenty-five 8½ × 11 inch, consecutively numbered pages of standard type (10–12 characters per inch), including tables, graphs and figures. For purposes of this limitation, the "project narrative section" of the application consists of the following items in the Application/Information Kit:

(1) Description of Project
(2) Objectives
(3) Results or Benefits Expected
(4) Approach
(5) General Project Information
(6) Quality Assurance (if needed)

Attachments, appendices and reference lists for the narrative section may be included, but come under the 25 page limitation. The SF–424 and other forms, itemized budget, resumes, and the abstract are not included in the 25 page limitation.

Resumes must not exceed two pages for each principal investigator and should focus on education positions held and most recent or related publications.

A one page abstract must be included with the application.

Applications not meeting these requirements will not be forwarded to reviewers. Applicants will be notified of deficiencies and requisite changes will be requested.

While applications responding to this solicitation may be received by EPA at any time, they are evaluated on specific dates which are different for each disciplinary area. Closing dates and appropriate contacts within EPA are listed in Table 1. Generally, all funding decisions on applications are made within 6 months of the application's closing date.

Applicants should contact the appropriate individuals identified in Table 1 for further information on schedules and review procedures. Their address and phone number are: Office of Exploratory Research (RD–675), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260–7473.

TABLE 1.—CLOSING DATES AND CONTACTS—GENERAL SOLICITATION

Discipline	Application closing dates	Contact
Biology	March 16, 1992	Clyde Bishop.
Health	N/A	Clyde Bishop.
Chem/Physics: Air.	March 6, 1992	Deran Pashayan.
Chem/Physics: Water/Soil.	March 16, 1992	Louis Swaby.
Engineering	April 16, 1992	Louis Swaby.
Socioeconomics.	March 25, 1992	Robert Papetti.

Targeted Grants Program

The Office of Exploratory Research addresses specific research topics which appear to merit extra emphasis or special attention by issuing a separate RFA for each such topic. The RFA is a mechanism by which a formal announcement is released describing a high priority initiative in well defined scientific areas.

Applicants are invited to submit research applications for a one-time competition using the standard Application for Federal Assistance Form SF–424 and other forms described in the Grant Application Kit. One copy of the application with original signatures plus eight copies should be mailed directly to the Grants Operations Branch at the above address.

The deadline for receipt of applications is identified in the RFA announcement.

As in the case of the general grants program, an application for a targeted grant is only considered when a fully developed proposal is submitted. Special guidelines and limitations tailored to each RFA will be published in the individual RFA announcements.

In FY–1992, OER expects to issue two RFA's. Tentative titles and other information relevant to each RFA are provided in Table 2.

Unless otherwise identified in individual RFAs, procedures, guidelines and limitations are the same for grants issued under the general and targeted grants programs.

This document does not constitute an RFA for any of the topics listed here. The RFA's will be published in the Federal Register in December 1991.

TABLE 2.—TENTATIVE RFA TITLES

RFA title	Approximate issue date	Contact
Biomarkers of priority pollutants in immunotoxicology, neurotoxicology and teratology.	December 1991	Clyde Bishop.
Improved pump and treat processes for remediation of superfund sites.	December 1991	Louis Swaby.

Guidelines and Limitations for the General Solicitation

The typical grant issued by OER is for approximately $100,000 per year for two or three years. Funding levels range from a minimum of about $40,000 to approximately $150,000 per year. All budget costs and justifications, particularly requests for equipment will be carefully reviewed. The maximum project period is three years; shorter periods are encouraged. Subcontracts for research to be conducted under the grant should not exceed approximately 40% of the total direct cost of the grant for each year in which the subcontract was awarded.

Eligibility

The following eligibility requirements apply to both general and targeted grants:

Nonprofit and educational institutions, and state or local governments are eligible under all existing authorizations. Profit-making firms are eligible only under certain laws, and then under restrictive conditions, including the absence of any profit from the project.

Potential applicants who are uncertain of their eligibility should study the restrictive language of the law governing the area of research interest or contact EPA's Grants Operations Branch at (202) 260–5266.

Federal agencies and federal employees are not eligible to participate in this program.

Investigators at minority institutions or those who have not previously received support are encouraged to submit applications.

Funding Mechanisms

For all general and targeted grants, the funding mechanism will consist of a grant agreement between EPA and the recipient.

Federal grant regulation 40 CFR 30.307 requires that all recipients provide a minimum of 5% of the total project cost, which may not be taken from Federal sources. OER will not support a request for a deviation from this requirement for any grant supported by its Research Grants Program.

Review Process

All general and targeted grant applications are initially reviewed by the Agency to determine their legal and administrative acceptability.

Acceptable applications are then reviewed by an appropriate peer review panel. This review is designed to evaluate and rank each proposal according to its scientific merit and utility as a basis for recommending Agency approval or disapproval. Each peer review panel is composed primarily of non-EPA scientists, engineers and economists who are experts in their respective disciplines.

The panels use the following criteria in their reviews:

- Quality of the research plan (including theoretical and/or experimental design, originality, and creativity)
- Qualifications of the principal investigator and staff including knowledge of subject area
- Utility of the research including potential contribution to scientific knowledge
- Availability and adequacy of facilities and equipment
- Budgetary justification—in particular justification and cost requests for equipment will be carefully reviewed

A summary of the scientific review and recommendation of the panel is provided to each applicant.

Minority Institutions Assistance

Preapplication assistance is available upon request from potential investigators representing institutions identified by the Secretary of Department of Education as Historically Black Colleges or Universities (HBCU's) or the Hispanic Association of Colleges and Universities (HACU's).

The application Form SF–424, instructions, subject areas, and review procedures are the same as those for the general grants program.

For further information, contact: Virginia Broadway, U.S. Environmental Protection Agency (RD–675), 401 M Street, SW., Washington, DC 20460, (202) 260–7473.

Dated: September 11, 1991.

Robert A. Papetti,

Director, Research Grants Staff.

[FR Doc. 91-22318 Filed 9-16-91; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3997-3]

Committee on National Accreditation of Environmental Laboratories; Open Meeting

Under the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the Committee on National Accreditation of Environmental Laboratories will hold an open meeting on Tuesday and Wednesday, November 5 and 6, 1991 at the Holiday Inn, 4610 North Fairfax Drive, Arlington, Virginia 22203. The meeting will begin each day at 9 a.m. and will end at 5 p.m.

The purpose of this meeting will be to receive and review the products of four subcommittees established at the first meeting of the committee.

The public is invited to provide written comments in advance of the meeting. Please provide a minimum of 30 copies at your earliest convenience and no later than 4 p.m. Tuesday, October 22, 1991, to Ms. Jeanne Hankins, WH-550G, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC. Comments received by October 22 will be distributed to committee members for their review in advance of the meeting. Comments not provided in advance should be made available for distribution to the committee (minimum of 30 copies) at the time of the meeting. EPA recommends that at least 25 additional copies of all comments be made available for distribution to the public at the meeting.

The meeting agenda wil include a brief period for oral comment by the public. Those who would like to make an oral presentation should contact Ms. Hankins, no later than 4 p.m. Tuesday, October 29, 1991, at 202/260-8454, to notify the committee of the subject of their comment and provide an estimate of the time required.

Dated: September 9, 1991.

E. Ramona Trovato,

Executive Secretary, Environmental Monitoring Management Council.

[FR Doc. 91-22319 Filed 9-16-91; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1861]

Petitions for Reconsideration of Actions in Rule Making Proceedings

September 10, 1991.

Petitions for reconsideration have been filed in the Commission rule making proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor Downtown Copy Center (202) 452-1422. Oppositions to these petitions must be filed October 3, 1991. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendments of part 69 of the Commission's Rules Relating to the Access Charge Subelements for Open Network Architecture. (CC Docket No. 89-79).

Policy and Rules Concerning Rates for Dominant Carriers (CC Docket No. 87-313).

Number Petitions Received: 13.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91-22293 Filed 9-16-91; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-916-DR]

Connecticut; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Connecticut (FEMA-916-DR), dated August 30, 1991, and related determinations.

DATES: August 30, 1991.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

NOTICE: Notice is hereby given that, in a letter dated August 30, 1991, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*, Public Law 93-288, as amended by Public Law 100-707), as follows:

I have determined that the damage in certain areas of the State of Connecticut, resulting from Hurricane Bob on August 19, 1991, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Connecticut.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas. Individual Assistance may be provided at a later date, if requested and warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Jose A. Bravo of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Connecticut to have been affected adversely by this declared major disaster:

The counties of Middlesex, New London, and Windham for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Jerry D. Jennings,

Deputy Director, Federal Emergency Management Agency.

[FR Doc. 91-22332 Filed 9-16-91; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-902-DR]

Louisiana; Amendment to a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Louisiana (FEMA-902-DR), dated April 23, 1991, and related determinations.

DATES: August 29, 1991.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3614.

NOTICE: The notice of a major disaster for the State of Louisiana, dated April 23, 1991, is hereby amended to add Public Assistance in the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 23, 1991:

The parishes of Bossier, Caddo, and Webster for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Grant C. Peterson,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 91–22333 Filed 9–16–91; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–915–DR]

Maine; Amendment to a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Maine (FEMA–915–DR), dated August 28, 1991, and related determinations.

DATES: September 10, 1991.

FOR FURTHER INFORMATION CONTACT: Neva L. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3614.

NOTICE: The notice of a major disaster for the State of Maine, dated August 28, 1991, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 28, 1991:

Sagadahoc County for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Grant C. Peterson,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 91–22334 Filed 9–16–91; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–915–DR]

Amendment to Notice of a Major Disaster Declaration; Maine

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Maine (FEMA–915–DR), dated August 28, 1991, and related determinations.

DATED: September 9, 1991.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3614.

NOTICE: The notice of a major disaster for the State of Maine, dated August 28, 1991, is hereby amended to add the Disaster Unemployment Assistance program in the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 28, 1991:

The counties of Androscoggin, Cumberland, Kennebec, Knox, Lincoln, Oxford, Sagadahoc, and York for Disaster Unemployment Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Grant C. Peterson,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 91–22335 Filed 9–16–91; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–915–DR]

Major Disaster and Related Determinations; Maine

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Maine (FEMA–915–DR), dated August 28, 1991, and related determinations.

DATED: August 28, 1991.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3614.

NOTICE: Notice is hereby given that, in a letter dated August 28, 1991, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*, Pub. L. 93–288, as amended by Pub. L. 100–707), as follows:

I have determined that the damage in certain areas of the State of Maine, resulting from Hurricane Bob and flooding on August 18–21, 1991, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Maine.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas. Individual Assistance may be provided at a later date, if requested and warranted. Consistent with the requirement that Federal assistant be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Alfred A. Hahn of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Maine to have been affected adversely by this declared major disaster:

The countries of Androscoggin, Cumberland, and York for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Jerry D. Jennings,

Deputy Director, Federal Emergency Management Agency.

[FR Doc. 91–22336 Filed 9–16–91; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–915–DR]

Amendment to Notice of a Major Disaster Declaration; Maine

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Maine (FEMA–915–DR), dated August 28, 1991, and related determinations.

DATED: September 4, 1991.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3614.

NOTICE: The notice of a major disaster for the State of Maine, dated August 28, 1991, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 28, 1991:

The counties of Franklin and Kennebec for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Richard W. Krimm,

Acting Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 91–22337 Filed 9–16–91; 8:45 am]

BILLING CODE 6718–02–M

Amendment to Notice of a Major Disaster Declaration; Massachusetts

[FEMA–914–DR]

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Massachusetts (FEMA–914–DR), dated August 26, 1991, and related determinations.

DATED: August 30, 1991.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

NOTICE: The notice of a major disaster for the Commonwealth of Massachusetts, dated August 26, 1991, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 26, 1991:

The counties of Dukes and Plymouth for Disaster Unemployment Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Grant C. Peterson,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 91–22338 Filed 9–16–91; 8:45 am]

BILLING CODE 6718–02–M

Advisory Committee of the National Earthquake Hazards Reduction Program (NEHRP); Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App.), announcement is made of the following committee meeting:

Name: National Earthquake Hazards Reduction Program (NEHRP) Advisory Committee.

Dates of Meeting: September 25–27, 1991.

Place:

September 25, 27: Holiday Inn, 625 El Camino Real, Palo Alto, California 94301.

September 26: U.S. Geological Survey, 345 Middlefield Road, Building 3, Second Floor, Conference Room B, Menlo Park, California 94025.

Time:

September 25—6 p.m. to 9 p.m.
September 26—9 a.m. to 5:10 p.m.
September 27—9 a.m. to 12 noon

Proposed Agenda: The Subcommittee on Earthquake Hazards Reduction Strategy will present a preliminary framework for discussion on its findings and the Subcommittee on Earth Sciences will present information on the earth sciences aspect of earthquake hazards reduction to the full Committee. The Committee will also examine the formulation of its advice relative to these issues.

The meeting will be open to the public with approximately ten seats available on a first-come, first-served basis. All members of the public interested in attending the meeting should contact Deborah O'Rourke at 202–646–2803.

Minutes of the meeting will be prepared by the Committee and will be available for public viewing at the Federal Emergency Management Agency, Office of Earthquakes and Natural Hazards, 500 "C" Street, SW., room 625, Washington, DC. Copies of the minutes will be available upon request 45 days after the meeting.

Dated: September 5, 1991.

Wallace E. Stickney,

Director, Federal Emergency Management Agency.

[FR Doc. 91–22339 Filed 9–16–91; 8:45 am]

BILING CODE 6718–01–M

FEDERAL MARITIME COMMISSION

Part of Umatilla et al.; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

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

Agreement Nos: 224–200561 and 224–200561–001.

Title: Port of Umatilla and J.R. Simplot, Operating Agreements.

Parties: Port of Umatilla, J.R. Simplot Company ("Simplot").

Synopsis: The basic Agreement filed, September 4, 1991, provides for Simplot to operate a refrigerated and dry container handling facility at the Port of Umatilla. In addition, Agreement No. 224–200561–001 also filed September 4, 1991, modifies paragraphs 20 and 23 of the Agreement.

Agreement Nos: 224–200562, 224–200562–001 and 224–200562–002.

Title: Port of Umatilla and J.R. Simplot Company, Marine Leasing Agreement.

Parties: Port of Umatilla, J.R. Simplot Company.

Synopsis: The basic Agreement, filed September 4, 1991, provides leasing operation between the Port and J.R. Simplot. Agreement No. 24–200562–001 filed September 4, 1991, modifies paragraphs 16 and 25 of the Agreement. Agreement No. 224–200562–002 filed September 4, 1991, modifies the monthly rental fee.

Agreement No: 202–006400–033.

Title: Inter-American Freight Conference, Pacific Coast Area.

Parties: N.V. CMB S.A., Empresa Lineas Maritimas Argentinas Sociedad Anonima (ELMA S/A). Maruba S.C.A. Nedlloyd Lijnen B.V. Norsul International S.A.

Synopsis: The proposed amendment would change the quorum requirements for a meeting from two-thirds to a majority of the members entitled to vote.

Agreement No: 232–011337–002.

Title: NOL, NLS & NYK Space Charter and Sailing Agreement.

Parties: Neptune Orient Lines, Ltd., Nippon Liner System, Ltd., Nippon Yusen Kaisha.

Synopsis: The proposed amendment would change the place of arbitration from New York to London, England.

Agreement No: 217–011345.

Title: Space Charter Agreement Between Neptune Orient Lines, Ltd. and Nippon Yusen Kaisha.

Parties: Neptune Orient Lines, Ltd. ("NOL"), Nippon Yusen Kaisha ("NYK").

Synopsis: The proposed Agreement would permit NYK to utilize space on NOL's vessels in the trade between ports in the Far East, South East Asia, Australasia, South West Asia and Mid-East and ports in the U.S. Atlantic range.

Dated: September 11, 1991.

By order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 91–22263 Filed 9–16–91; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

The Dai-Ichi Kangyo Bank, Limited; 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 October 8, 1991.

A. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. The Dai-Ichi Kangyo Bank, Limited, Tokyo, Japan; to engage *de novo* through its subsidiary, The CIT Group Holdings, Inc., New York, New York, in operating a collection agency for the collection of accounts receivable, either retail or commercial pursuant to § 225.25(b)(23) of the Board's Regulation Y. These activities will be conducted worldwide.

Board of Governors of the Federal Reserve System, September 11, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91–22289 Filed 9–16–91; 8:45 am]

BILLING CODE 6210–01–F

Pioneer 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 October 8, 1991.

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

1. Pioneer Bancshares, Inc., Chattanooga, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Pioneer Bank, Chattanooga, Tennessee.

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

1. Republic Financial Corp., Wichita, Kansas; to acquire 87.06 percent of the voting shares of The Southwest National Bank of Wichita, Wichita, Kansas.

Board of Governors of the Federal Reserve System, September 11, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91–22290 Filed 9–16–91; 8:45 am]

BILLING CODE 6210–01–F

David Ray and Elizabeth Ann Tritten, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 8, 1991.

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

1. David Ray and Elizabeth Ann Tritten, Waynesville, Missouri; to acquire 2,138 shares of Tritten Bancshares, Inc., St. Robert, Missouri, resulting in pro forma ownership of 2,506 shares (34.75 percent), and thereby indirectly acquire First State Bank, St. Robert, Missouri.

2. Frank E. and Beverly Ann Wiles, Pleasant Hope, Missouri; to acquire 2,506 shares of Tritten Bancshares, Inc., St. Robert, Missouri, and thereby indirectly acquire First State Bank, St. Robert, Missouri (34.75 percent).

Board of Governors of the Federal Reserve System, September 11, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-22291 Filed 9-16-91; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

[File No. 902 3135]

Bertolli USA, Inc.; 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 New Jersey-based company from misrepresenting the validity, results, conclusions or interpretations of any test or study; and from representing that olive oil or any other edible oil produces any health benefits, such as reducing blood pressure and blood sugar, unless the respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation.

DATES: Comments must be received on or before November 18, 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: Joel Winston or Nancy Warder, FTC/S-4002, Washington, DC 20580. (202) 326-3153 or 326-3048.

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)).

The Federal Trade Commission having initiated an investigation of certain acts and practices of Bertolli USA, Inc., a corporation ("Bertolli" or "proposed respondent") and it now appearing that proposed respondent is willing to enter into an agreement to cease and desist from the use of certain acts and practices being investigated.

It is hereby agreed by and between Bertolli, by its duly authorized officer, and counsel for the Federal Trade Commission that:

1. Proposed respondent Bertolli is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its offices and principal place of business located at 1 Harmon Plaza, P.O. Box 2617, City of Secaucus, State of New Jersey.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft complaint here attached.

3. Proposed respondent waives:

(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; and

(d) All rights under the equal Access to Justice Act.

4. This agreement shall not become part of the public record in 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 the agreement and so notify the proposed respondent, 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 require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft attached complaint, or that the facts as alleged in the attached draft complaint, other than the jurisdictional facts, are true.

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 the proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of the 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 complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may 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 the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

For purposes of this Order the "Trevisan Article" means the study by Trevisan and others reported in the February 2, 1990, issue of the Journal of the American Medical Association titled Consumption of Olive Oil, Butter, and Vegetable Oils and Coronary Heart Disease Risk Factors.

I

It is ordered That respondent Bertolli USA, Inc., a corporation, its successors and assigns, and its officers, representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of any food 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, contrary to fact, that medical science has established that:

A. Eating olive oil lowers blood pressure; or

B. Eating olive oil lowers blood sugar.

II

It is further ordered That respondent Bertolli USA, Inc., a corporation, its successors and assigns, and its officers, representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of any food product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing that the Trevisan Article reports that olive oil is healthier than other oils;

B. Representing that the findings of the Trevisan Article support prior research that found that monounsaturated oils, such as olive oil, reduce LDL cholesterol and protect HDL cholesterol; or

C. Representing that the Trevisan Article reports that study participants who had the most olive oil in their diets had the lowest levels of blood cholesterol.

III

It is further ordered That respondent Bertolli USA, Inc., a corporation, its successors and assigns, and its officers, representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of any food 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, that:

A. Eating olive oil lowers cholesterol more than other cooking oils used in the home;

B. Eating olive oil lowers blood pressure or lowers blood sugar;

C. Bertolli olive oil is healthier for the heart than other cooking oils used in the home;

D. Any edible oil has the relative or absolute ability to cause or contribute to any health attribute or benefit; or

E. Any edible oil has a favorable impact on any physiologic function or risk factor for a disease, or any other health benefit;

unless at the time of making such representation respondent possesses and relies upon a reasonable basis consisting of competent and reliable scientific evidence that substantiates the representation; provided, however, that any such representation that is specifically permitted in labeling for such food product by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990 will be deemed to have a reasonable basis as required by this paragraph. For any test, analysis, research, study, or other evidence to be "competent and reliable" for purposes of this Order, such test, analysis, research, study, or other evidence must be conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted by others in the profession or science to yield accurate and reliable results.

IV

It is further ordered That respondent Bertolli USA, Inc., a corporation, its successors and assigns, and its officers, representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of any food product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting in any manner, directly or by implication, the contents, validity, conclusions, interpretations, purpose, or results of any study, test, or other scientific data.

V

It is further ordered That respondent Bertolli USA, Inc., its successors and assigns, shall, for three (3) years after the date of the last dissemination of the representation to which they pertain, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials relied upon to substantiate any representation covered by this Order;

B. All studies in scientific journals or other test reports that are referred to in any representation covered by this Order; and

C. All test reports, studies, surveys, or other materials in its possession or control that contradict, qualify or call into question such representation or the basis upon which respondent relied for such representation.

VI

It is further ordered That respondent Bertolli USA, Inc., shall, within thirty (30) days after service upon it of this Order, distribute a copy of the Order to each of its operating divisions, to each of its managerial employees, and to each of its officers, agents, representatives or employees engaged in the preparation or placement of advertising or other materials covered by this Order and shall secure from each such person a signed statement acknowledging receipt of this Order.

VII

It is further ordered That respondent Bertolli USA, Inc., shall notify the Commission at least thirty (30) days prior to any proposed change such as the 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 arising out of this order.

VIII

It is further ordered That respondent Bertolli USA, Inc., shall, within sixty (60) days after service upon it of this Order 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 the requirements of this Order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Bertolli USA, Inc. (Bertolli).

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 proposed order.

According to the proposed compliant, Bertolli published four advertisements concerning the health benefits of eating olive oil. The headlines of two of the ads state that recently "medical science confirmed olive oil can lower cholesterol, blood pressure and blood sugar". The text of the two ads, which is identical to the text of the third ad, claims that a study published in the February 2, 1990 issue of the Journal of the American Medical Association found that olive is healthier than other oils, margarine, and butter. In addition, the text of the three ads claims that the study showed that the people with the most olive oil in their diet had the lowest levels of blood cholesterol, blood pressure, and blood sugar and that the findings of the study support prior research that found that monounsaturated oils like olive oil protect the beneficial subfraction of serum cholesterol, while reducing the harmful cholesterol subfraction. A fourth ad, that appeared on Valentine's

Day, claims that olive is more heart healthy than other oils.

According to the proposed compliant, Bertolli's ads make five false claims. Specifically, the ads claim that it is medically established that eating olive oil lowers blood pressure and blood sugar. To the contrary, there is little scientific evidence supporting these claims. The ad also makes three false claims about the study published in the Journal of the American Medical Association: That the study found that olive oil is more healthy than other home cooking oils; that the people in the study with the most olive oil in their diet had the lowest blood cholesterol; and that the findings of the study support prior research showing that monounsaturated oils have a beneficial impact on cholesterol subfractions. However, the article reports the findings of the study in carefully qualified terms and concludes that both mounounsaturated and polyunsaturated oils have a beneficial impact on coronary disease risk. Moreover, the article reports that the people who had the most polyunsaturated fat in their diet had the lowest cholesterol levels. Finally, the study reported in the article did not measure serum cholesterol subfractions.

In addition, the proposed complaint alleges Bertolli's advertising made four unsubstantiated claims. The advertisements imply that there is a reasonable basis for the claims that eating olive oil lowers blood pressure and blood sugar, when there is little valid scientific evidence supporting either claim. According to the proposed complaint, the advertisements also create the net impression that predominantly monounsaturated oils lower blood cholesterol more than other home cooking oils, although predominantly polyunsaturated oils, such as corn oil, are equally, if not more, cholesterol-lowering than monounsaturated oils. Finally, the fourth ad claims that Bertolli olive oil is more heart healthy than other home cooking oils. This claim, like the more specific coronary disease risk factor reduction claims, is unsubstantiated.

Under the terms of the proposed consent order, Bertolli is prohibited from making the claims, contrary to fact, that it is medically established that eating olive oil lowers blood pressure or blood sugar. In addition, the order prohibits Bertolli from making the three specific false claims about the study reported in the Journal of the American Medical Association.

The order also contains a provision that prevents Bertolli from making the following four claims without a reasonable basis consisting of competent and reliable scientific evidence: that eating olive oil lowers blood pressure; that eating olive oil lowers blood sugar; that olive oil lowers blood cholesterol more than other home cooking oils; and the Bertolli olive oil is more heart healthy than other home cooking oils. The substantiation provision also contains a fencing-in provision that prevents Bertolli from claiming that any edible oil has a favorable impact on a psychologic function or the risk of disease, or provides any other health benefit, without having a reasonable basis for the claim. The proposed order provides a safe harbor for claims that are specifically approved by the Food and Drug Administration under the Nutrition Labeling and Education Act of 1990.

The final substantive provision of the order prevents Bertolli from misrepresenting in any way the interpretation or results of any study, test, or other scientific data.

Under the proposed order, Bertolli must distribute copies of the order to its operating divisions that are involved in the preparation and placement of advertisements as well as notify the Commission thirty (30) days in advance of any change in the corporation that may affect compliance obligations arising out of the order.

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 to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 91-22309 Filed 9-16-91; 8:45 am]

BILLING CODE 6750-01-M

[Dkt. C-3342]

Electronic Data Systems 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, and of the Fair Credit Reporting Act (FCRA), this consent order requires, among other things, the respondent to mail to applicants—denied employment based on a consumer report from a consumer credit reporting agency since January 1, 1989—letters stating the reason for the denial, and the name and address of the consumer reporting agency that supplied the respondent with the report. In addition, the order requires the respondent with the report. In addition, the order requires the respondent to comply with the consumer disclosure provisions of the FCRA for future job applicants and to maintain various documents demonstrating compliance with the FCRA for the next five years.

DATES: Complaint and Order issued August 21, 1991.[1]

FOR FURTHER INFORMATION CONTACT: Cynthia Lamb, FTC/S-4429, Washington, DC 20580. (202) 326-3001.

SUPPLEMENTARY INFORMATION: On Tuesday, June 11, 1991, there was published in the **Federal Register**, 56 FR 26823, a proposed consent agreement with analysis In the Matter of Electronic Data Systems 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. Interpret or apply sec. 5, 38 Stat. 719, as amended; 84 Stat. 1128-36; 15 U.S.C. 1681-1681(f))

Donald S. Clark,

Secretary.

[FR Doc. 91-22307 Filed 9-16-91; 8:45 am]

BILLING CODE 6750-01-M

[Docket C-3341]

Jerome Russell Cosmetics U.S.A., Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a California-based cosmetic company and its owner from representing that any product containing a Class I ozone-depleting substance will not damage the ozone layer, and from making unsubstantiated claims that any product

[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.

containing an ozone-depleting substance offers environmental benefits.

DATES: Complaint and Order issued August 21, 1991.[1]

FOR FURTHER INFORMATION CONTACT: Michael Dershowitz, FTC/S–4002, Washington, DC 20580. (202) 326–3158.

SUPPLEMENTARY INFORMATION: On Tuesday, June 11, 1991, there was published in the **Federal Register**, 56 FR 26827, a proposed consent agreement with analysis In the Matter of Jerome Russell Cosmetics U.S.A., Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of 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. 91–22306 Filed 9–16–91; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3340]

Madison County Veterinary Medical Association, et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, an Alabama association and four individual veterinarians from entering into any agreement: to refuse to deal with any person or program promoting the sale to consumers of veterinary services at discounted prices; or to fix or standardize the manner of sale, promotion or advertising of veterinary goods or services.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

DATES: Complaint and Order issued August 16, 1991.[1]

FOR FURTHER INFORMATION CONTACT: Chris Couillou, Atlanta Regional Office, Federal Trade Commission, 1718 Peachtree Street, NW., Room 1000, Atlanta, Ga. 30367. (404) 347–4836.

SUPPLEMENTARY INFORMATION: On Thursday, June 6, 1991, there was published in the **Federal Register**, 56 FR 26109, a proposed consent agreement with analysis In the Matter of Madison County Veterinary Medical Association, et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of 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. 91–22308 Filed 9–16–91; 8:45 am]

BILLING CODE 6750–01–M

[File No. 902 3018]

Pacific Rice Products, Inc.; 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 California company from misrepresenting the contents, validity, results, conclusions or interpretations of any test or study; and from representing that any food produces any health benefit, unless the respondent possesses and relies upon competent and reliable scientific evidence to substantiate the representation.

DATES: Comments must be received on or before November 18, 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: Mark Kindt, Cleveland Regional Office, Federal Trade Commission, 668 Euclid Ave., suite 520–A, Cleveland, Ohio 44114. (216) 522–4207.

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)).

The Federal Trade Commission having initiated an investigation of certain acts and practices of Pacific Rice Products, Inc., a corporation ("proposed respondent"), and it now appearing that proposed respondent is willing to enter into an agreement containing an Order to Cease and Desist from the use of the acts or practices being investigated,

It is hereby agreed by and between proposed respondent, by its duly authorized officer and its attorney and counsel for the Federal Trade Commission that:

1. Proposed respondent is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 1275 Santa Anita Court, Post Office Box 2060, Woodland, California 95695.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft Complaint here attached.

3. Proposed respondent waives:

(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; and

(d) All claims under the Equal Access to Justice Act.

4. This Agreement shall not become part of the public record of the proceeding unless and until it is

[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.

accepted by the Commission. If this Agreement is accepted by the Commission, it, together with the draft Complaint contemplated thereby, 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 proposed respondent, 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 require) and Decision, in disposition of the proceeding.

5. This Agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft Complaint here 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 respondent, (1) issue its Complaint corresponding in form and substance with the draft complaint and 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 United States Postal Service of the Complaint and Decision containing the agreed-to Order to proposed respondent's address as stated in this Agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The Complaint attached hereto may be used in construing the terms of the Order. No agreement, understanding, representation, or interpretation not contained in the Order or the Agreement may be used to vary or contradict the terms of the Order.

7. Proposed respondent has read the proposed Complaint and Order contemplated hereby. Proposed respondent understands that once the Order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the Order. Proposed respondent further understands that it 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 respondent Pacific Rice Products, Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of any food product, do forthwith cease and desist from misrepresenting, directly or by implication, the contents, validity, results, conclusions or interpretations of any test or study.

II

It is further ordered That respondent Pacific Rice Products, Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of any food product, do forthwith cease and desist from representing, directly or by implication, that any health benefit may or will be derived from consumption of such product unless, at the time such representation is made, respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation. For purposes of this provision, to the extent evidence consists of scientific or professional tests, analyses, research, studies, or any other evidence based on the expertise of professionals in the relevant area, such evidence shall be "competent and reliable" only if those tests, analyses, research, studies, or other evidence are conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession or science to yield accurate and reliable results.

III

It is further ordered That, for three (3) years from the date that the representations are last disseminated, respondent shall maintain and upon request make available to the Commission for inspection and copying:

(A) All materials relied upon to substantiate any representation covered by this Order; and

(B) All tests, reports, studies, surveys or other materials in its possession or control that contradict, qualify or call into question such representation or the basis relied upon for such representation.

IV

It is further ordered That respondent shall distribute a copy of this Order to each of its operating divisions and to each officer and other person responsible for the preparation or review of advertising material, and shall secure from each such person a signed statement acknowledging receipt of a copy of this Order.

V

It is further ordered That respondent shall notify the Commission at least thirty (30) days prior to the effective date of any proposed change in the corporate respondent such as 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 arising out of this Order.

VI

It is further ordered That respondent shall, within sixty (60) days after service of this Order, file with the Commission a report, in writing, setting forth in detail the manner in which it has complied with this Order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed Consent Order from Pacific Rice Products, Inc., a corporation.

The proposed Consent Order has been placed on this public record for sixty (60) days for receipt 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 proposed Order contained in the agreement.

This matter concerns advertisements by Pacific Rice Products, Inc. for its Vita Fiber Rice Bran.

The Complaint alleges that Pacific Rice Products, Inc. engaged in deceptive advertising in violation of sections 5 and 12 of the Federal Trade Commission Act by falsely implying that it had scientific substantiation for three advertising claims made for Vita Fiber Rice Bran:

(1) That clinical studies have proven that consumers who add Vita Fiber Rice

Bran to their diets will reduce their serum cholesterol levels;

(2) That because consuming Vita Fiber Rice Bran lowers cholesterol, its consumption will reduce the consumer's risk of heart disease; and

(3) That consumers who add Vita Fiber Rice Bran to their diets will improve the ratio of HDL-to-LDL cholesterol in their blood.

The Consent Order contains provisions designed to ensure that in the future Pacific Rice Products has substantiation for the types of claims at issue here. Part I of the Order prohibits Pacific Rice Products from misrepresenting the contents, validity, results, conclusions or interpretations of any test or study.

Part II of the Order prohibits Pacific Rice Products from representing that any food confers any health benefit unless at the time such representation is made Pacific Rice Products possesses and relies upon a reasonable basis consisting of competent and reliable scientific evidence to substantiate the representation.

The remainder of the Order contains standard record-retention and notification provisions.

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. 91-22310 Filed 9-16-91; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

Availability of a Draft Environmental Impact Statement for the Consolidation of the Headquarter Offices of the Health Care Financing Administration in Baltimore County/ Baltimore City, MD.

The General Services Administration (GSA) announces the availability of a Draft Environmental Impact Statement (DEIS), documenting the impacts of the construction and operation of a building or complex of buildings for the consolidation of the Health Care Financing Administration (HCFA) in any of three broadly defined geographical areas of the Baltimore region: the Woodlawn area; the Owings Mills area; and the downtown Baltimore City area. Also evaluated is a "No-Action" alternative in which HCFA's present operations would remain scattered among nine separate locations in the general Woodlawn vicinity.

The ability of each general alternative location to accommodate the facility and the potential impacts of such a facility in each location are assessed to aid in future decision-making. The DEIS will also provide guidance for the preparation of site-specific environmental analyses. Such analyses will constitute a second phase of environmental evaluation and will be prepared at the appropriate time in the procurement process to ensure required mitigation has been identified for site related impacts.

A formal public hearing on the DEIS will be scheduled in the Baltimore area in the near future. The date, time, and place will be announced in the local papers once final arrangements have been made.

Written comments on the DEIS will be accepted until October 25, 1991, and should be submitted to: Mr. Harold Quinn, Director, Planning Staff, General Services Administration, Ninth and Market Streets, room 5000, Philadelphia, PA 19107.

Copies of the DEIS and DEIS Appendix are available upon request by writing to the address above, or calling Mr. Harold Quinn at (215) 597-1550.

Dated: September 6, 1991.

Harold Quinn,

Director, Planning Staff.

[FR Doc. 91-22235 Filed 9-16-91; 8:45 am]

BILLING CODE 6820-23-M

Electronic Data Interchange Price Sales Catalog

General Services Administration/ Federal Supply Service has begun work on a new system that will allow Federal Agencies to electronically place orders for FSS Schedule items. After the agency places the order, the information will be converted into the ANSI X12 Purchase Order (PO) format for Electronic Data Interchange (EDI) transmission to the appropriate vendor. This system will incorporate an electronic catalog which will be placed on the existing FSS Multi-Use File for Interagency News (MUFFIN) system. To create this catalog and keep it up dated, FSS will be using the ANSI X12 transaction set 832-Price Sales Catalog. Using the 832, vendors will be able to submit catalog information via EDI. This will facilitate the initial loading of vendor catalog information and allow for next day updates to the catalog if changes are necessary. The purpose of this notice is to solicit input and recommendations from all FSS clients, including vendors and agencies, as to what information, above that which is required by the standards, will make the 832 function best for FSS, its customers, and its suppliers: Please submit recommendations to: GSA/FSS, Stuart Goulden (FCSPS), Washington, DC, 20406. Comments are due no later than October 25, 1991. Thank you for your help in this matter. If you have any questions, please contact Stuart Goulden on (703) 557-2741.

Dated: September 16, 1991.

James L. DeProspero,

Assistant Commissioner for Commodity Management (FC).

[FR Doc. 91-22236 Filed 9-16-91; 8:45 am]

BILLING CODE 6820-24-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 of an existing information collection for the Administration for Native Americans' (ANA) Objective Progress Report.

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 ACF, OMB Reports Management Branch, New Executive Office Building, room 3002, 725 17th Street, NW., Washington, DC 20503, (202) 395-7316.

Information on Document

Title: Objective Progress Report.

OMB No.: 0980-0155.

Description: The Objective Progress Report, a component of ANA's management information and evaluation system, is one of the two required reports which provide the basic information on the projects receiving federal financial assistance grants under

the Native American Programs Act of 1974 as amended.

The objective progress reports provide a means through which information about projects, significant for management and policy development, may be systematically and regularly converted into ANA's Program Information and Evaluation System (PIES). This system is used to produce summary reports and is the information source for analytic studies of the projects funded by ANA. It also provides the only available history of, and specific project contents for, ANA grants. They receive many requests to produce such information from the public, from constituents, from other federal agencies and from the Congress.

Annual Number of Respondents: 241.

Annual Frequency: 3.

Average Burden Hours Per Response: 3.

Total Burden Hours: 2,169.

Dated: September 9, 1991.

Donna N. Givens,

Deputy Assistant Secretary for Children and Families.

[FR Doc. 91-22246 Filed 9-16-91; 8:45 am]

BILLING CODE 4130-01-M

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 of an existing information collection for the Administration for Native Americans' (ANA) Objective Evaluation Report.

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 ACF, OMB Reports Management Branch, New Executive Office Building, room 3002, 725 17th Street, NW., Washington, DC 20503, (202) 395-7318.

Information on Document

Title: Objective Evaluation Report.

OMB No.: 0980-0144.

Description: The Objective Evaluation Report, a component of ANA's management information and evaluation system, is one of the two required reports which provide the basic information on the progress of projects receiving federal financial assistance grants under the Native American Programs Act of 1974 as amended.

The Objective Evaluation Report is a self-evaluation through which the grantee reports on achievement of the objectives funded and indicates results and benefits of the project. This report is a major source of information needed by ANA to fulfill the requirements of section 811 of the Act which requires reports on and evaluations of grants funded.

Annual Number of Respondents: 241.

Annual Frequency: 1.

Average Burden Hours Per Response: 4.

Total Burden Hours: 964.

Dated: September 9, 1991.

Donna N. Givens,

Deputy Assistant Secretary for Children and Families.

[FR Doc. 91-22247 Filed 9-16-91; 8:45 am]

BILLING CODE 4130-01-M

Agency for Health Care Policy and Research

Announcement of MEDTEP Research Centers on Minority Populations

The Agency for Health Care Policy and Research (AHCPR) invites applications for cooperative agreements from nonprofit institutions to develop and manage Medical Effectiveness Treatment Program (MEDTEP) Research Centers on Minority Populations. The centers, under the authority of section 902 of the Public Health Service Act (42 U.S.C. 299a), will conduct and support research, technical assistance, information dissemination, and research training on the appropriateness and effectiveness of health care services and procedures provided to minority populations. For the purposes of this notice, minority populations are defined as African Americans, Hispanic Americans, American Indians, Alaska Natives, Asians, and Pacific Islanders. The AHCPR expects to award approximately $4 million in Fiscal Year 1992 for developmental and full centers.

Preference in awards will be given to applicants that currently devote a major portion of their resources to the training of minority health care providers, the employment of minority health care providers, and the provision of health care to minority populations. Comments on this preference are invited as discussed below.

These awards will enable institutions to plan and establish new research centers, and operate existing and new research centers which address patient outcomes research on topics of special importance to minority populations. AHCPR expects to make separate awards for developmental and full centers. It is expected that each center's activities will emphasize one or more minority population(s), including subgroups that might be characterized by such factors as urban or rural residence, or age. Each center is expected to focus on health conditions that are particularly problematic to minorities, in terms of unexplained variations in the way medical treatment is practiced, the outcomes from such practice, or the relative costliness of care. The overall focus of each center is to be on the health care of minority population(s), rather than any single disease or condition. For the conditions studied (e.g., hypertension, low birth weight, substance abuse), activities are to emphasize the comparative effectiveness of strategies used for prevention, diagnosis, treatment, and management. Work carried out by each center is to be multi-disciplinary and should address various health care providers, settings, and geographic areas. Multi-disciplinary research may involve scientists in medicine, nursing, human behavior, statistics, economics, organizational behavior, law, public health, and related fields.

Applicants must have the scientific, technical, organizational, and physical resources necessary to carry out: (1) Multi-disciplinary patient outcomes research, including development and analyses of national and regional databases; (2) technical assistance to health care providers and others; (3) training of health services researchers; and (4) dissemination of research findings and the evaluation of dissemination strategies.

The centers are to be responsive to the diverse information needs of health care providers, patients, and policy-makers. Individual projects may include synthesis of existing literature and data, collection and analysis of new data, development of databases, improvement of measures of health status and methods for data collection and analysis, and development or testing of methods to disseminate research findings. In addition, the centers are to train new investigators in patient outcomes research, and provide technical assistance.

The centers are also expected to work with AHCPR on analyses and studies. Such joint activities may involve syntheses of research findings, data analyses, or the preparation of background information on various

topics relating to health care and minority populations. As part of a cooperative agreement, the AHCPR will have substantive involvement in the planning and conduct of research, technical assistance, dissemination, and training carried out by each center.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of "Healthy People 2000," a PHS-led national activity for setting priority areas. This announcement, "MEDTEP Research Centers on Minority Populations," addresses health services and protection objectives 21.3–21.8 and other special populations objectives targeting minorities. Potential applicants may obtain a copy of "Healthy People 2000" (Full Report: Stock No. 017–001–00474–0 or Summary Report: Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (telephone 202–783–3238).

Written comments are invited on providing preference in awards to applicants that currently devote a major portion of their resources to the training of minority health care providers, the employment of minority health care providers, and the provision of health care to minority populations. AHCPR will not provide responses to comments during this funding cycle. However, all comments received will be considered in determining whether changes are needed in future funding preferences to target more effectively funds for MEDTEP Research Centers on Minority Populations. To be considered, written comments should be received within 30 days of the date of this notice and be directed to: Linda K. Demlo, Ph.D., Director, Office of Program Development, Office of Planning and Resources Management, AHCPR, room 18A–30, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Background

The Agency for Health Care Policy and Research has the lead responsibility for the Medical Treatment Effectiveness Program (MEDTEP) within the Department of the Health and Human Services. Under MEDTEP, projects are supported that systematically study the relationship between health care and patient outcomes. Findings of this research contribute to the knowledge base used by non-Federal experts and consumer representatives in developing clinical practice guidelines, as mandated by sections 902 and 912 of the PHS Act (42 U.S.C. 299a and 299b–1). In addition, findings will help to identify unresolved questions suitable for further study.

Research conducted under MEDTEP addresses fundamental questions about what differences medical care makes: Do patients benefit? What treatments work best? Are health care resources well spent? MEDTEP research projects build on work that documents numerous and substantial variations in patterns of care that can neither be attributed to patient need or preferences, nor clearly linked to patient outcomes (Wennberg, 1987; Connell, 1981). MEDTEP is concerned with those practice variations that result from uncertainty or controversy about the relative effectiveness or appropriateness of alternative interventions, and those that result from differences in the knowledge, skill, or "practice styles" of health care providers. Serious questions arise about the quality, appropriateness, and cost effectiveness of health care when practice variations are associated with disparate patient outcomes, or equivalent outcomes but significant differences in resource use.

The objectives of the MEDTEP Research Centers on Minority Populations are to support research, information dissemination, and research training to improve the effectiveness of health care services provided to minority patients. Minority populations have been found to be in poorer health than other population groups. Elevated morbidity and mortality rates among minorities have been well-documented, with the highest disparities among low-income, rural, and the elderly (DHHS, 1985). Minorities have higher mortality rates due to heart disease, cancer, pneumonia, and low birthweight. For example, in 1987 African-American infants were twice as likely to die than white infants, and African-American males had an average life expectancy approximately 7 years less than white males (DHHS, 1989).

Differences in access to and availability of services contribute to these statistics. Are there, however, existing strategies for prevention, diagnosis, treatment, and management that are more beneficial than other strategies? Are there health care resources that can be used in a more cost-effective manner in the delivery of health care services and procedures for minority populations? What difference do alternative clinical interventions make with respect to minority patient outcomes, including functional status and quality of life?

Examples of questions and issues relevant to the expected activities of a MEDTEP Research Center on Minority Populations include:

- What does the existing literature indicate about the relative effectiveness of various combinations of medical and educational strategies in prenatal care in reducing low-birthweight and related disability in minority populations?
- How are variations in clinical practices for specific minority populations and conditions associated with differences in reimbursement policies, Medicaid eligibility criteria, medical liability, locus of care, and provider characteristics?
- What are the most effective methods for disseminating research findings in order to change provider and patient behavior concerning the use of health care services for minority populations?
- What are the steps required to assemble a database appropriate for analysis of the outcomes of care provided to minority populations in rural areas?
- What aspects of research findings about minority health care and outcomes need to be incorporated in the training of primary care physicians and health services researchers?

In addition, attention needs to be given to those factors associated with the differences in patient outcomes that vary both between and within minority groups. This heterogeneity within identified minority groups is an important aspect of research design, interpretation of data, and dissemination of results (DHHS, 1984).

With respect to the analytic methods to be employed by the centers, it is important to develop or adapt existing research strategies which will take into account the social context, medical risk factors, utilization patterns, and practice variations within ethnic communities (Zambrana, 1991). Data collection techniques must be sensitive to cultural differences, and aid in a systematic and rigorous approach to the accumulation of information (Brown, 1988). For example, survey instruments need to be acceptable to the intended audience and, where appropriate, designed to supplement existing data and aggregate data from multiple sources. Comparability of information can be enhanced by standardizing operational definitions of race, ethnicity, class, and nativity (Cramer, 1987; Zambrana, 1991). Further research is required on the identification of adequate proxy measures for low-income status. For example, Medicaid enrollment status may be misleading if temporarily unemployed or disabled individuals and graduate students are included (Zambrana, 1991). Efforts can be made to collect information regarding patient

educational level on the medical record in order to better understand socioeconomic status (Cramer, 1987). Improved information about genetic, environmental, nutritional, cultural and socioeconomic factors which affect severity and progression of disease would be useful in the design and evaluation of strategies to determine treatment variation.

The literature on minority health innovations suggests the need to consider the socio-cultural characteristics of the population in the development of any social program and related research (DHEW, 1979; Harwood, 1981; Payton, 1981). Multi-cultural health care professional representation is important in order to minimize cultural biases and to facilitate access to the subgroup of interest (White, 1977). The literature on disease prevention/health promotion demonstrates the value of employing subgroup members in data collection activities (Nickens, 1990). The varying of methods, involving rigorous application of both quantitative and qualitative strategies, has shown to be useful in the design and interpretation of studies of minority populations (Green et al., 1980).

The references cited above are listed at the end of this notice in appendix A.

Center Structure and Mechanism of Support

The AHCPR funds are intended to provide basic support for each center and to allow it to function effectively. Core funding will be provided through a full center or developmental center award, in which the recipient is reimbursed for administrative and staff support, the provision of technical assistance, dissemination mechanisms such as center-sponsored newsletters, and a program of training in patient outcomes research.

Research projects may also be supported in their initial stages with core funds, although it is expected that research projects will ultimately be sponsored with funds obtained from sources other than the AHCPR award. The review criteria identified below include reference to the proposed center's plans to attract and retain other funding sources in support of its research projects.

It is expected that each funded research center will have an advisory committee, and that the committee will meet at least annually. Core funds are also used to support costs associated with the center's advisory committee, including the convening of periodic committee meetings to advise the center director about the center's management and its programs. This advisory committee would typically be composed of representatives from the center's parent institution, and senior national and regional representatives from outside of the parent institution, including health care policymakers, researchers, health care providers, and consumers.

The center director must be a manager who can provide strong administrative leadership. The center director will be responsible for the organization and operation of the center, liaison with the research community and outside entities, such as professional societies, subcontractors, and consumer groups, and communication with AHCPR on scientific and operational matters. Personnel and institutional resources capable of developing and maintaining a substantial commitment to patient outcomes research must be available. The center may consist of core staff with significant time commitments to the center and affiliate staff with lesser time commitments. Multi-disciplinary collaboration among researchers working within the center is essential; each application should contain a plan to assure continuing interaction and participation among the center's researchers.

In addition, the applicant institution and pertinent department(s) should show a strong commitment to the center and its development, including plans to support the organizational and management structure of the center. Each center is generally expected to share common resources with other components or departments of the applicant institution, including technical, clerical and administrative personnel, instrumentation, computer resources, subject populations, and data bases.

The center may be a consortium of organizations although, as noted above, preference will be given to primary applicants that currently devote a major portion of their resources to the training of minority health care providers, the employment of minority health care providers, and the provision of health care to minority populations. It is expected that members of a consortium will provide collateral or supplemental support to the applicant organization.

There are two types of MEDTEP research centers which the AHCPR intends to fund: Full and developmental centers. These are described below. All of the additional information in the announcement, i.e., special instructions, provisions of the cooperative agreement, review procedures, application preparation, method of applying, and timetable, is the same for both full and developmental centers.

I. Full Centers

A maximum of $750,000 first-year total costs (direct plus indirect) may be requested for full center support, and a maximum of $3,750,000 in total costs may be requested per application for full centers for the entire project period, which is not to exceed 5 years.

In preparing budget requests for full centers, applicants are reminded that the reasonableness of proposed budgets is among the criteria to be used in AHCPR's peer review of applications. An applicant for a full center should seriously consider whether the scope of the proposal calls for the full $750,000 funding amount, especially during the start-up phase of the program.

II. Developmental Centers

Applicants may request developmental funding of up to $400,000 total annual costs for each of a minimum of 2 years and a maximum of 3 years if it is believed that the proposed center needs time to develop, and is not likely to meet initially all performance criteria. For example, such applicants may need time to develop an organizational structure, may be lacking a minimal complement of staff, linkages with the research, policy, or provider community, or the capability to undertake significant research immediately. Such developmental applications would need to show considerable promise in these areas. Funded developmental centers would need to demonstrate continuous improvement in performance and organization throughout their developmental period, and would be expected to apply competitively for funding to become full centers by the end of their developmental period.

In preparing budget requests for developmental centers, applicants are reminded that the reasonableness of proposed budgets is among the criteria to be used in AHCPR's peer review of applications. An applicant for a developmental center should seriously consider whether the scope of the proposal calls for the full $400,000 funding amount, especially during the start-up phase of the program.

Each year's continuation award to both full and developmental centers is subject to the availability of funds and a progress review by AHCPR at the end of each year of the award. The progress review may involve a site visit to the center of AHCPR staff and non-Federal expert advisers to AHCPR. The progress review will address the center's productivity and general compliance with the basic review criteria listed below and provisions of the approved

application. If a continuation review indicates that insufficient progress has been made, AHCPR may withhold the continuation award prior to completion of the grant period.

Awards for both full and developmental centers will be in the form of cooperative agreements. Under the terms of these cooperative agreements, the awardee determines the organization and management of the research center as specified by this announcement, and retains responsibility for all aspects of performance of the center. The AHCPR, however, anticipates substantial programmatic involvement in the research, technical assistance, training, and dissemination activities of each center.

Specifically, the AHCPR role in the cooperative agreement with both full and developmental centers will include providing technical assistance in:

1. The areas of program development and priority setting.
2. The dissemination of the centers' research findings through the AHCPR publication program, and assisting in selecting the most effective mechanisms for their dissemination.
3. Gaining access to relevant databases for research on medical treatment effectiveness.
4. Monitoring of the centers' individual research projects.
5. The conduct of research projects, including adjustments to study designs and protocols.
6. The centers' research training activities and educational seminars.

It is expected that each center will collaborate with the AHCPR on research or data analysis, the preparation of research background information, or other analytical activities relating to the appropriateness and effectiveness of health care for minority populations.

Special Instructions to Applicants Concerning Inclusion of Women and Minorities in Research Study Populations

The AHCPR observes NIH and ADAMHA policy requiring applicants for research grants to include minorities and women in study populations so that research findings can be of benefit to all. This announcement obviously addresses that policy with regard to minorities. Additional emphasis, however, should be placed on the need to include women of all ages in studies of diseases, disorders and conditions which affect them. If women are excluded or inadequately represented in research to be undertaken by these MEDTEP research centers, particularly in proposed population-based studies, a clear compelling rationale should be provided.

The composition of any proposed study group must be described in terms of gender. In addition, gender should be addressed in developing the research design and sample size appropriate for the scientific objectives of any study.

All applications for MEDTEP research centers supported by AHCPR are required to address this policy with respect the inclusion of women and minorities. AHCPR will not award grants for applications which do not comply and, if the required policy is not reflected in the application, the application will be returned without review.

Review Procedures

Applications for MEDTEP research centers will be evaluated in national competition by the AHCPR grant peer review process. The receiving office at the Division of Research Grants, National Institutes of Health, will determine if an application is complete. Applications will be assessed by AHCPR staff for responsiveness to this notice. Any applications judged nonresponsive because they are incomplete, inadequately developed, in an improper format, or otherwise unsuitable for AHCPR peer review and funding consideration, will be returned without further consideration. The determination of any application as nonresponsive will be the sole responsibility of AHCPR and the receiving office at the National Institutes of Health.

All responsive applications will undergo AHCPR peer review for scientific merit by a chartered review committee of non-Federal experts convened by AHCPR, and those applications recommended for approval will subsequently be considered by AHCPR's National Advisory Council for Health Care Policy, Research, and Evaluation. The AHCPR peer review committee may recommend approval, disapproval, approval with modifications, or may defer its recommendation until its next scheduled meeting, while more information is obtained from the applicant.

Whenever the committee recommends approval, it will also assign a priority score to the approved application. The application and the recommendations of the AHCPR peer review committee are then reviewed by AHCPR's National Advisory Council. It is expected that some applications will be recommended for approval and be unfunded because they do not receive a high enough priority score. The AHCPR peer review process is rigorous, and only those applications judged of greatest merit are recommended for approval with highest priority.

Applicants should clearly indicate whether they are initially applying for full or developmental center support. Developmental centers are expected to demonstrate, over time, the ability to perform as a full center.

Eligible Applicants

Applications for these research centers may be submitted by public or private nonprofit institutions and units of State and local governments. For-profit institutions are not eligible for AHCPR grants or cooperative agreements.

Application procedures

Applications must be submitted in accordance with section 924 of the PHS Act (42 U.S.C. 299c–3) and with instructions in the application kit and 42 CFR 67.13.

Application Forms

All applicants, except units of State and local governments, must use form PHS 398 (revised 10/88). Applicants from State and local governments may use from PHS 5161, Application for Federal Assistance (nonconstruction programs) although all applicants are encouraged to use form PHS 398. While grant application materials are available at most institutional business offices, applicants are strongly encouraged to obtain the application materials from AHCPR's Office of Scientific Review at the address below. This will enable AHCPR to have an early indication of the number of potential applicants for planning purposes.

Office of Scientific Review, Office of Planning and Resource Management, AHCPR, room 18A–20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3091.

Applicants should follow the instructions for form PHS 398 where appropriate. However, the form PHS 398 was developed primarily for research project grants rather than research centers. Therefore, substitute the following headings for sections A through I in section 2 of the application:

A. Introduction and background; any special emphases of the proposed center.

B. Currently available organizational resources. What resources (e.g., people, expertise, ongoing research, organizational support and relationships, funds, equipment) are available now to develop and implement the proposed center?

C. Organizational changes that will be implemented to develop the proposed research center. What activities and organizational alignments will be undertaken to institute the proposed center?

D. The nature of proposed and existing organizational relationships of the center. Include, for example, the proposed center's relationship with health care providers, state and local governments and other policymakers, the proposed center's advisory committee, and the research community.

E. The proposed center's agenda in research, training, technical assistance, and dissemination. What activities and projects are currently in place? What will be developed?

F. The process of decision-making and lines of authority within the proposed center.

G. The expected accomplishments of the proposed center.

H. Human subjects (the same as in "E" in the application form).

I. Consultants/collaborators (the same as in "G" in the application form).

J. Consortium/contractual arrangements (the same as in "H" in the application form).

K. Literature cited (the same as in "I" in the application form).

Letter of Intent

Potential applicants are urged to submit a letter of intern to Dr. Miriam A. Kelly, Center for Medical Effectiveness Research, AHCPR, at the address below by October 4, 1991. (This is an extension of an earlier date announced in the NIH Guide for Grants and Contracts.) Although a letter of intent is neither required nor binding, and does not enter into the review of subsequent applications, the information that it contains is helpful in planning for the review of applications. It assists AHCPR in estimating the potential review workload and avoiding possible conflicts of interest in the selection of peer reviewers. The letter of intent should include the name(s) of the proposed principal investigator, principal collaborators and participants, and the organization(s) involved.

Application Deadline and Submission

The deadline for receipt of applications is November 12, 1991. Applications should be submitted using form PHS 398 (revised 10/88). Applicants from State and local governments may use form PHS 5161, Application for Federal Assistance (nonconstruction programs). However, all applicants are encouraged to use form PHS 398. Applicants should check the "Yes" box in line 2 of the application face page and write "RFA HS–91–02" and "MEDTEP Research Centers on Minority Populations." The RFA label contained in the application kit must be affixed to the bottom of the face page of the original copy of the application. Failure to use this label could result in delayed processing and review of the application.

Applications should be authored by the principal participants in the proposed center, include complete information about the proposed research center, and address specifically the criteria specified below which will be used in the review of the applications.

The completed application (original and five copies of form PHS 398; or the original and two copies of form PHS 5161) must be mailed to: Application Receipt Office, Division of Research Grants, National Institutes of Health, Westwood Building, room 240, Bethesda, Maryland 20892.

Applications must be received by the Division of Research Grants (NIH) on or before November 12, 1991. However, an application received after the deadline may be acceptable if it carries a legible proof-of-mailing date assigned by the carrier and the proof-of-mailing date is not later than 1 week prior to the deadline date. The receipt date will be waived only in extenuating circumstances. To request such a waiver, applicants must include an explanatory letter with the signed, completed application. No request for a waiver will be considered prior to receipt of the application. Applications judged to be late will be returned without review.

Applicants should simultaneously submit one copy labeled "Advance Copy" to: Miriam A. Kelly, Ph.D., Center for Medical Effectiveness Research, Agency for Health Care Policy and Research, MEDTEP Research Centers Program, 6001 Montrose Road, suite 704, Rockville, MD 20852.

Overall Timetable

Letter of intent receipt date: October 4, 1991 (This is an extension of an earlier date announced in the NIH Guide for Grants and Contracts.) Submit to Dr. Miriam A. Kelly, MEDTEP Research Centers Program, Center for Medical Effectiveness Research, AHCPR, at the address above.

Application receipt date: November 12, 1991. Submit to Division of Research Grants, NIH, Westwood Building, Bethesda, MD 20892.

Initial (scientific) review date: February 7, 1992. National Advisory Council meeting date: May 1992. Earliest grant award and start date: July-September 1992.

Review Criteria

The following criteria will be used in the review of applications for MEDTEP Research Centers on Minority Populations.

- The proportion of resources currently devoted by the primary applicant organization to the training of minority health care providers, the employment of minority health care providers, and the provision of health care to minority populations (in the case of applications involving consortium arrangements, the primary applicant is the grantee).
- The appropriateness of the proposed budget and the extent to which the fiscal plan provides assurance that effective use would be made of the funds awarded.
- The quality of the organizational and institutional arrangements to operate the proposed center, including plans for the use of an advisory committee by the center. Also, in the case of consortium applications, the degree of clarity in the differentiation of activities, and in the description of coordination efforts among organizational participants. This description should include the nature and extent of collateral or supplemental support provided to the applicant organization by other consortium members.
- The qualifications, achievements, commitment, and number of the senior personnel of the proposed center, including the appropriateness of their specific time commitments.
- The quality of the proposed center's program and general approach, including its proposed research agenda and publications, technical assistance, dissemination, and training activities. The degree to which the center's agenda reflects a realistic and well-conceived program in view of available skills, funding resources, and health care issues pertinent to the particular minority population(s) to be addressed.
- The actual and planned level of commitment of the applicant institution to the proposed center, including its specific plans to support the organizational and management structure of the center.
- The past success and future potential of the proposed center's staff in receiving research and organizational funding support from sources other than the core AHCPR grant, and the center's potential to remain productive after the term of award ends.
- The extent to which the proposed center's research plan reflects an awareness of significant methodological

and data problems in medical treatment effectiveness research, and incorporates the concerns of pertinent constituents.

• The strength of the relationship(s) the proposed center has or is likely to develop with the particular health care system in which research projects will be conducted and research findings tested; the demonstrated ability or potential of the center to reach its target populations for research.

• The coordination of the proposed center's research and training efforts, and the degree to which multiple scientific principles are represented in its program.

Funding Availability

I. Full Centers

The AHCPR expects to commit approximately $3 million in competitive awards for full MEDTEP Research Centers on Minority Populations in Fiscal Year (FY) 1992. Approximately four full centers are expected to be awarded in FY 1992.

II. Developmental Centers

The AHCPR expects to commit approximately $1 million in competitive awards for developmental MEDTEP Research Centers on Minority Populations in FY 1992. Approximately three developmental centers are expected to be awarded in FY 1992.

The issuance of awards and the relative numbers of full and developmental center awards will depend on the availability of funds and on the quality of the applications. No awards will be made if, in the judgment of the reviewers, applications do not merit funding. The initial AHCPR review committee may recommend funding for less than the requested period and amount, with continued funding contingent on submission of a competitive continuation application.

Availability of Conference Materials

Based on announcements published on July 26 in the NIH Guide for Grants and Contracts, a conference for prospective applicants was held on September 12. The focus of the conference was to discuss the programmatic and administrative details of the program and to respond to individual questions from prospective applicants attending the conference. For those who did not attend, essentially all aspects of the program are contained in this announcement. Individuals interested in obtaining a copy of the key questions and answers addressed at the conference should contact Dr. Miriam Kelly, Center for Medical Effectiveness Research, AHCPR, at the address below. Individuals also may contact Dr. Kelly or Mr. Ralph Sloat, Chief, Grants Management Branch, (address below) for further technical and/or administrative assistance.

For Further Information

For information on program aspects, contact: Miriam A. Kelly, Ph.D., Health Scientist Administrator, MEDTEP Research Centers Program, Center for Medical Effectiveness Research, AHCPR, 6001 Montrose Road—suite 704, Rockville, MD 20852 (301) 443–0782.

For information on grants and business management aspects, contact: Ralph L. Sloat, Chief, Grants Management Branch, Office of Planning and Resource Management, AHCPR, room 18A–27, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857 (301) 443–4033.

All grants funded under this announcement are subject to grant regulations set out in 42 CFR part 67, subpart A, and the PHS Grants Policy Statement. This AHCPR grant program is described in the Catalog of Federal Domestic Assistance as Numbers 93.226 and 93.180. AHCPR grant applications are not subject to Executive Order 12372.

Dated: August 2, 1991.

J. Jarrett Clinton,

Administrator.

Appendix A

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[FR Doc. 91–22368 Filed 9–16–91; 8:45 am]

BILLING CODE 4160–90–M

Food and Drug Administration

Advisory Committees; Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETINGS: The following advisory committee meetings are announced:

Obstetrics and Gynecology Devices Panel of the Medical Devices Advisory Committee

Date, time, and place. October 4, 1991, 9 a.m., First Floor Conference Rm., 1390 Piccard Dr., Rockville, MD.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 5 p.m.; Colin M. Pollard, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1180.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before September 20, 1991, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a premarket approval application for a self-administered home PAP smear kit.

Dental Products Panel of the Medical Devices Advisory Committee

Date, time, and place. October 24, 1991, 9 a.m., Ballroom, Gaithersburg Marriott, 620 Perry Pkwy., Gaithersburg, MD.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 4 p.m.; D. Gregory Singleton, Center for Devices and Radiological Health (HFZ-410), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1180.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before October 10, 1991, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss the potential reclassification of dental endosseous implants.

Cardiovascular and Renal Drugs Advisory Committee

Date, time, and place. October 24 and 25, 1991, 9 a.m., Jack Masur Auditorium, Clinical Center Bldg. 10, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD. Parking in the Clinical Center visitor area is reserved for Clinical Center patients and their visitors. If you must drive, please use an outlying lot such as Lot 41B. Free shuttle bus service is provided from Lot 41B to the Clinical Center every 8 minutes during rush hour and every 15 minutes at other times.

Type of meeting and contact person. Open public hearing, October 24, 1991, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 5 p.m.; open committee discussion, October 25, 1991, 9 a.m. to 5 p.m.; Joan Standaert, Center for Drug Evaluation and Research (HFD-110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 419-259-6211.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in cardiovascular and renal disorders.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before October 11, 1991, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On October 24, 1991, the committee will discuss Manoplex (flosequinan), new drug application (NDA) 19-960, for use in congestive heart failure, Boots Pharmaceuticals; and the results of the Prospective Randomized Milrinone Survival Evaluation (PROMISE). On October 25, 1991, the committee will discuss antihypertensive drug development.

Anti-Infective Drugs Advisory Committee

Date, time, and place. October 31 and November 1, 1991, 8 a.m., Conference Rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, October 31, 1991, 8 a.m. to 8:30 a.m., unless public participation does not last that long; open committee discussion, 8:30 a.m. to 6 p.m.; open public hearing, November 1, 1991, 8 a.m. to 10:30 a.m., unless public participation does not last that long; open committee discussion, 10:30 a.m. to 6 p.m.; Adele S. Seifried, Center for Drug Evaluation and Research (HFD-9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4695.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in infectious and ophthalmic disorders.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before October 18, 1991, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On October 31, 1991, the committee will discuss: (1) The use of quinolone class antimicrobials for the treatment of streptococcal infections, including approval standards and review of present knowledge, and (2) a draft of the Division of Anti-Infective Drug Products divisional policy on the need for "two adequate and well-controlled studies" for the approval of antimicrobial drug products (agency presentation). On November 1, 1991, the committee will discuss: (1) a draft of the Division of Anti-Infective Drug Products divisional policy on the need for "two adequate and well-controlled studies" for the approval of antimicrobial drug products (committee discussion) and (2) data regarding the appropriate dosing regimen for NDA 19-591 (mefloquine, Hoffman-La Roche) and NDA 19-578 (mefloquine, U.S. Army) when used for prophylaxis of chloroquine resistant malaria.

Copies of the draft of the divisional policy will be available at the meeting or after October 1, 1991, at the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI-35), Food and Drug Administration, Rm. 12A-16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: September 11, 1991.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 91-22288 Filed 9-16-91; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Public Information Collection Requirements Submitted to the Office of Management and Budget for Clearance

AGENCY: Health Care Financing Administration, HHS.

The Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information in compliance with the Paperwork Reduction Act (Pub. L. 96-511).

1. *Type of Request:* Extension; *Title of Information Collection:* Health Insurance Common Claims Form and Instructions; *Form Numbers:* HCFA-1500, HCFA-1490S HCFA-1490U; *Use:* This form will become the standardized form for use in the Medicare/Medicaid programs to apply for payment for covered services; it will reduce costs and administrative burdens associated with claims since only one coding system will be used and maintained; *Frequency:* On occasion; *Respondents:* State/local governments, businesses/other for profit, and small businesses/organizations; *Estimated Number of Responses:* 500,100,000; *Average Time per Response:* 15 minutes for hard copy and 1 minute for electronically submitted claims; *Total Estimated Burden Hours:* 76,131,890.

2. *Type of Request:* Reinstatement; *Title of Information Collection:* Request for Review of Part B Medicare Claim; *Form Numbers:* HCFA-1964; *Use:* This form is used nationally to request review of an initial determination made on a part B health insurance claim. It is completed by beneficiaries who wish to pursue their statutory appeal rights; *Frequency:* On occasion; *Respondents:* Individuals/households; *Estimated Number of Responses:* 7,200,000; *Average hour per Response:* .25; *Total Estimated Burden Hours:* 1,800,000.

3. *Type of Request:* Revision; *Title of Information Collection:* Annual Report on Home and Community-based Services Waivers; *Form Number:* HCFA-372; *Use:* States with an approved waiver under section 1915(c) of the Social Security Act are required to submit the HCFA-372 in order for HCFA to verify that State assurances regarding waiver cost-effectiveness are met and to determine the waiver's impact on the type, amount, and cost of services provided under the State Plan and the welfare of recipients; *Frequency:* Annually; *Respondents:* State/local governments; *Estimated Number of Responses:* 127; *Average Hours per Response:* 40; *Total Estimated Burden Hours:* 5,080 (reporting) and 4,982 (recordkeeping) for a total of 10,062.

4. *Type of Request:* Extension; *Title of Information Collection:* Internal Revenue Service/Social Security Administration/Health Care Financing Administration Data Match Project; *Form Numbers:* HCFA-R-137; *Use:* Employers identified through this match will be contacted concerning Group Health Plan coverage of identified employees to ensure compliance with the Medicare Secondary Payer provisions at 42 U.S.C. 1395y(b); *Frequency:* Annually; *Respondents:* State/local governments, businesses/other for profit, Federal agencies, and non-profit institutions; *Estimated Number of Responses:* 808,352; *Average Hours per Response:* Response time varies from 2 to 200 hours (depending on number of employees involved) with an average of 4 hours; *Total Estimated Burden Hours:* 3,293,450.

5. *Type of Request:* Extension; *Title of Information Collection:* State Medicaid Eligibility Quality Control Sampling Plans; *Form Numbers:* HCFA-317; *Use:* The State MEQC Sampling Plan is necessary for HCFA to monitor the States' operation of the MEQC system. The sampling plan includes all data involved in the State's sample selection process—population sizes and sample frame lists, sample sizes, sample selection procedures, and claims collection procedures; *Frequency:* Monthly; *Respondents:* State/local governments; *Estimated Number of Responses:* 110; *Average Hours per Response:* 24; *Total Estimated Burden Hours:* 2,640.

6. *Type of Request:* Extension; *Title of Information Collection:* End State Renal Disease (ESRD) Transplant Information; *Form Number:* HCFA-2745; *Use:* This form is completed by all Medicare-approved ESRD transplant facilities upon the completion of a kidney transplant. The form collects data concerning transplant recipients and donors. Reports of transplants are used to prepare the annual "ESRD Patient Profile Tables" which show demographic characteristics of living and deceased rental transplant recipients; *Frequency:* On occasion; *Respondents:* Businesses/other for profit; *Estimated Number of Responses:* 8,960; *Average Hours per Response:* .75; *Total Estimated Burden Hours:* 6,720.

7. *Type of Request:* Extension; *Title of Information Collection:* Hospital Provider of Long Term Care Services (Swing Bed) Survey Report Form; *Form Number:* HCFA-1537C; *Use:* This form is used by the State agency to record data collected in order to determine compliance with individual conditions of participation and report it to the Federal government; *Frequency:* On occasion; *Respondents:* State/local government; *Estimated Number of Responses:* 1,500; *Average Hours per Response:* .25; *Total Estimated Burden Hours:* 375. Additional Information Comments: Call the Reports Clearance Officer on 301-966-2088 for copies of the clearance request packages. Written comments and recommendations for the proposed information collections should be sent directly to the following address: OMB Reports Management Branch, Attention: Allison Eydt, New Executive Office Building, room 3208, Washington, DC 20503.

Dated: September 10, 1991.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

[FR Doc. 91-22278 Filed 9-16-91; 8:45 am]

BILLING CODE 4120-03-M

[BPO-91-FN]

Medicare Program; Data, Standards and Methodology Used to Establish Budgets for Fiscal Intermediaries and Carriers

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final notice.

SUMMARY: This notice announces that we are adopting as final without revision previously published proposed data, standards and methodology to establish fiscal imtermediary and carrier budgets for the fiscal year beginning October 1, 1990.

EFFECTIVE DATE: The data, standards and methodology are effective for the fiscal year beginning October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Tom Hessenauer (301) 966-7546.

SUPPLEMENTARY INFORMATION:

Background

On October 24, 1990, we published at 55 FR 42900 a proposed notice describing the data, standards and methodology we intended to use to

establish Medicare program budgets for fiscal intermediaries and carriers for the Federal fiscal year (FY) beginning October 1, 1990. This notice is required by section 4035(a) of the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100–203). The notice described the budget development process in general, gave an overview of how we intend to use the contractor budget data, standards and methodology to establish the FY 1991 budgets, and identified the fiscal year 1991 national Medicare contractor budget data, standards and methodology.

In the overview discussion, we indicated that, as in the prior fiscal year, the Medicare contractor budget would be structured to coincide with the seven functional areas of responsibilities performed by intermediaries for part A and eight functional areas of responsibilities performed by carriers for part B. The functional area responsibilities for part A are: (1) Bills Payment; (2) Reconsiderations and Hearings; (3) Medicare Secondary Payer; (4) Medical Review and Utilization Review; (5) Provider Audit (Desk Reviews, Field Audits and Provider Settlements); (6) Provider Reimbursement; and (7) Productivity Investments. The functional area responsibilities for Part B are: (1) Claims Payment; (2) Reviews and Hearings; (3) Beneficiary/Physician Inquiries; (4) Medical Review and Utilization Review; (5) Medicare Secondary Payer; (6) Participating Physicians; (7) Professional Relations; and (8) Productivity Investments. These functions are funded from the Hospital Insurance (HI) and Supplementary Medical Insurance (SMI) trust funds.

We noted that, while the intermediaries and carriers are preparing their annual budget requests, HCFA develops preliminary budget allocations for the 15 functional areas based upon historical patterns, workload growth, inflation assumptions, statistical forecasting reports and any other available information. Both HCFA central office and regional office staff review intermediary and carrier budget requests. HCFA regional offices discuss the differences between the intermediary and carrier requests and the HCFA derived allocations and negotiate with each intermediary and carrier a final, mutually acceptable budget within the limits of funding available to HCFA.

Comments on Proposed Notice

In response to our request for comments, we received only one set of timely comments, from a provider of various hospital services in the States of Michigan, Iowa and Ohio; and we respond to issues raised by the commenter below.

The timely commenter addressed the general process of developing and negotiating budgets as well as the data, standards and methodology specifically proposed for public review and comment. However, most comments did not discuss the proposed data standards and methodology and, hence, were outside of the scope and intent of the notice. For example, the commenter discussed using a competitive bidding process to select contractors and the notion of forcing contractors to justify their budgets to the Congress. Both of these comments would require fundamental changes to the contracting process. As another example, the commenter suggested assessing the contractors' staff handling of phone inquiries through unannounced, independent assessments to verify that competent services are received by the beneficiaries. This level of detail is beyond that proposed.

One comment did address the issue of quality considerations for the Medicare Secondary Payer (MSP) Program, which is a functional area of both intermediaries and carriers. The comment suggested the need to base MSP funding on not just savings goals, workload volume, required system changes and special projects, but to take into consideration the quality and accuracy aspect of the MSP program. The commenter felt that program costs could be reduced by curtailing erroneous interpretation of Federal and State laws whereby an incorrect primary payer is identified, and felt that unnecessary legal costs may be incurred by the program litigating to have a primary payer or beneficiary reimburse a health care provider. The commenter categorized the litigation expense as an unnecessary program cost and an inefficiency in the program. The commenter suggests that more consideration should be given to quality and accuracy in the MSP Program; however, the commenter did not offer recommendations for improving what it believed to be lack of consideration for quality and accuracy.

In response, we note that, in addition to establishing savings goals related to MSP activities through the budget process, HCFA measures the quality and accuracy of individual carrier and intermediary MSP decisions through the Contractor Performance Evaluation Program (CPEP). We referenced that the CPEP program was incorporated into the data, standards and methodology included in the proposed notice on page 42904, under the discussion of standards.

While there are no specific provisions for assuring the competence of individual members of the contractor's staff, their collective performance is directly measured through the administration of CPEP. This program covers all contractor functions and scores the contractor on quality, timeliness, and accuracy of the work performed.

On September 28, 1990, we had published (55 FR 39730) a notice describing the criteria for evaluating intermediary and carrier performance during fiscal year 1991, which included MSP criteria. As measured by CPEP, an intermediary and carrier must administer the MSP program in a manner that achieves maximum savings and cost avoidance to the Medicare trust funds. The full standards to evaluate contractor MSP performance are located on pages 39733 and 39735 of the September 29, 1990, Federal Register. We would agree that we want to avoid "unnecessary" legal costs, but little of our contractor budget is spent in litigation. The general issue asserted by the commenter, raised without example or illustration, appears negligible to be without substance.

In light of the commenter's interest, we note that CPEP also measures quality in the inquiries function through scoring the contractor on quality of written correspondence, as well as measuring the response times for the phone-in inquiries. While CPEP does not specifically score quality for phone-in inquiries, the Medicare Carriers Manual, part 2 (section 5104.B) requires that carriers implement a system for monitoring calls for the purpose of controlling quality and accuracy of information.

Based on our review of the comments submitted, we are making no changes to the data, standards and methodology as published on October 24, 1990. Therefore, we are adopting as final, the data, standards and methodology as proposed.

(Catalog of Federal Domestic Assistance Program No. 93.778 Medical Assistance Program; No. 93.773, Medicare—Hospital Insurance Program; No. 93.774, Medicare—Supplemental Medical Insurance)

Dated: March 26, 1991.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

[FR Doc. 91–22276 Filed 9–16–91; 8:45 am]

BILLING CODE 4120–03–M

Public Health Service

Food and Drug Administration; Statement of Organizations, Functions, and Delegations of Authority

Part H, Chapter HK (formerly Chapter HF) (Food and Drug Administration) of the Statement of Organizations, Functions, and Delegations of Authority for the Department of Health and Human Services (56 FR 29484, June 27, 1991) is amended to reflect the establishment of substructive for the Office of Policy in the Food and Drug Administration (FDA). This Office will provide increased focus, direction, and coordination of the Agency's policy and regulations activities. For this reason, the regulations policy functions within the Office of Regulatory Affairs, Office of Operations are being transferred to the Office of Policy. The program management functions within the Office of Executive Operations in the immediate Office of the Commissioner are also being transferred to the Office of Policy. Functional statements are also presented for the Regulations Policy and Management Staff, the Policy Development and Coordination Staff, and the Policy Research Staff of the Office of Policy.

Under section HK–B, Organization:

1. Insert the following new paragraphs under the *Office of the Commissioner (HKA)* reading as follows:

Office of Executive Operations (HKA4). Coordinates identification of and expedites development and implementation of the Agency's highest program priorities for the Commissioner.

Coordinates and facilitates, for the Commissioner, program initiatives and resolution for program issues involving more than one component of the Agency.

Advises the Commissioner, Deputy Commissioners, other Policy Board members, and key Agency officials on all activities that affect Agencywide programs, projects, and initiatives.

Performs special Agencywide assignments involving complex problems and issues related to Agency programs, strategies, and activities.

Assures that materials in support of recommendations presented for the Commissioner's consideration are comprehensive, accurate, are fully discussed and encompass the issues involved.

Reviews, analyzes, and evaluates pertinent aspects of the Agency's ongoing programs and consults with appropriate Policy Board members to insure a comprehensive approach toward identifying and resolving problems.

Provides direct support to the Commissioner and Deputy Commissioners, including briefing materials, background information for meetings, and responses to outside inquiries.

Provides correspondence control for the Commissioner and controls and processes all Agency public correspondence directed to the Commissioner. Develops and operates tracking systems designed to identify and resolve early warning and bottleneck problems with executive correspondence.

Tracks **Federal Register** documents and responses to executive communication memoranda directed to, or of interest to the Commissioner and Deputy Commissioners.

Informs appropriate Agency staff of the decisions and assignments made by the Commissioner and Deputy Commissioners, reviews and coordinates all of the Commissioner's Agency communications and concurrences, and secures background data and revisions from appropriate Agency components.

Coordinates the Agency's communications with PHS and HHS, including correspondence for the signature of the Assistant Secretary for Health or the Secretary.

Reviews the Commissioner's correspondence for program issues and monitors Congressional testimony with program implications.

Prepares speeches for the Deputy Commissioners, including drafting texts and obtaining appropriate Agency clearance.

2. Insert the following new subparagraph under *the Office of Operations (HKB)* reading as follows:

Office of Regulatory Affairs (HKBC). Advises and assists the Commissioner and other key officials on regulations and compliance-oriented matters that have an impact on policy development and execution and long-range program goals.

Coordinates, interprets, and evaluates the Agency's overall compliance efforts; as necessary, establishes compliance policy or recommends policy to the Commissioner.

Stimulates an awareness within the Agency of the need for prompt and positive action to ass-re compliance by regulated industries; works to assure an effective and uniform balance between voluntary and regulatory compliance and Agency responsiveness to consumer needs.

Evaluates and coordinates all proposed legal actions to ascertain compliance with regulatory policy and enforcement objectives.

Executes direct line authority over all Agency field operations; develops, issues, approves, or clears proposals and instructions affecting field activities; serves as the central point within the Agency through which Headquarters offices obtain field support services.

Provides direction and counsel to Regional Food and Drug Directors in the implementation of policies and operational guidelines that form the framework for management of Agency field activities.

Develops and/or recommends to the Commissioner policy, programs, and plans for activities between the Agency and State and local agencies; administers the Agency's overall Federal-State program and policy; coordinates the program aspects of Agency contracts with State and local counterpart agencies.

Evaluates the overall management and capabilities of the Agency's field organization; initiates action to improve the management of field activities and coordinates the formulation and management of career development plans.

Directs and coordinates the Agency's emergency preparedness and civil defense programs.

Operates the Federal Medical Products Quality Assurance Program for the Agency.

3. Insert the following new subparagraphs under the Office of Policy (HKC) reading as follows:

Regulations Policy and Management Staff (HKC1). Directs, manages, and coordinates the Agency's rulemaking activities and regulations development system. Initiates new and more efficient systems or procedures to accomplish Agency goals in the rulemaking process and plans regulatory reform steps.

Reviews proposed regulations, final regulations, and other Agency documents to be published in the **Federal Register**. Assures regulations are necessary; consistent with established Agency policy; clearly written; enforceable; coordinated with other Agency components, the Office of the General Counsel, and Federal, State, and local government agencies; appropriately responsive to public participation requirements and applicable executive orders; and responsive to any applicable requirements for assessment of economic and environmental effects.

Assures that all regulations required by statute are promulgated.

Coordinates, with other Agency components, the evaluation of existing regulations to determine whether they

are efficiently and/or effectively accomplishing their intended purpose. Identifies regulations that require revision to correspond with current standards and those which should be revoked due to obsolescence. Makes recommendations for disposition of these regulations.

Arbitrates regulatory policy disagreements between Agency components during the preparation of **Federal Register** documents.

Edits, processes, and prepares finished manuscript material for the issuance of Agency proposed and final regulations and other documents published in the **Federal Register**.

Provides all **Federal Register** document development support functions (including cross-referencing, record retention, incorporation by reference, document tracking, and Agency master print books of current CFR materials). Controls numbering and organization of Agency codified material to insure proper structure of regulations being issued.

Policy Development and Coordination Staff (HKC2). Advises and assists the Deputy Commissioner for Policy concerning information that may affect current or proposed FDA policies.

Advises the Deputy Commissioner for Policy and other senior Agency officials on the formulation of broad Agency regulatory policy.

Establishes procedures for Agency policy formulation and monitors policy formulation activities throughout the Agency.

Negotiates the resolution of policy issues involving more than one component of the Agency.

Develops and coordinates the review and analysis of policy.

Initiates and participates in interagency discussions on Agency regulations, plans, and policies to improve coordination of Federal regulations. When appropriate, assumes the lead in working with other Federal, State, or local agencies on a specific regulation or in developing an effective regulatory approach.

Serves on Agency task forces that are critical elements in the initiation, study, and resolution of priority policy issues.

Serves as the Agency focal point for developing and maintaining communications, policies, and programs with regard to regulations development and international harmonization, including international standard setting and bilateral agreements on inspections.

Serves as the Agency liaison for intergovernmental policy development.

Policy Research Staff (HKC3). Proposes and researches policy alternatives.

Identifies and researches the impact of FDA policies on national health issues and technological advances.

Identifies and researches the impact of external factors, including national health issues and technological advances, on FDA programs.

Dated: September 10, 1991.

Kevin E. Moley,

Assistant Secretary for Management and Budget.

[FR Doc. 91-22292 Filed 9-16-91; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO-320-01-4211-02-262F]

Information Collection Submitted to the Office of Management and Budget 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 provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made October 17, 1991 directly to the Bureau Clearance Officer and to the Office of Management and Budget, Interior Department Desk Officer, Washington, DC 20503, telephone number 202-395-7340.

Title: Right-of-Way Cost Recovery Procedures, 43 CFR 2808.

Abstract: Respondents supply identifying information and data on monetary value of the rights and privileges sought by the applicant, costs incurred for the benefit of the general public interest rather than for the exclusive benefit of the applicant, and public services provided which are necessary to determine who may be entitled to a set-off against reimbursement of costs to the government.

Bureau Form Number: None Required.

Frequency: Once.

Description of Respondents: Right-of-way applicants for which the authorized officer determines that the Bureau's application processing activities will require gathering of original data to comply with the National Environmental Policy Act and other statutes, and three or more field examinations.

Annual Responses: 17.

Annual Burden Hours: 850.

Bureau Clearance Officer (Alternate): Gerri Jenkins 202-653-8853.

Dated: August 9, 1991.

Michael J. Penfold,

Assistant Director, Land and Renewable Resources.

[FR Doc. 91-22237 Filed 9-16-91; 8:45 am]

BILLING CODE 4310-84-M

[OR-056-4351-12; GP1-360]

Prineville District; Closure of Public Lands in Oregon

September 9, 1991.

ACTION: Notice of permanent seasonal closure of public lands; Oregon.

SUMMARY: Pursuant to the Brothers/LaPine Resource Management Plan and Record of Decision, notice is hereby given that effective immediately, all public lands as legally described below are closed seasonally to all motorized vehicle access. This closure will be in effect from midnight, September 25, to midnight, March 1, annually.

This closure is part of a cooperative wildlife enhancement project being undertaken by Federal, State and private organizations and augments an existing road closure on adjacent National Grassland properties.

The only exception to this order would be for authorized administrative use and emergency needs.

Township 14 South, Range 13 East of the Willamette Meridian:
Section 1: S½NE¼
Section 2: S½NW¼, SW¼NE¼, NE¼SW¼, SE¼SE¼, Lots 1, 2, 3, 4
Section 12: All

Township 14 South, Range 14 East of the Willamette Meridian:
Section 5: SW¼NW¼, NW¼SW¼
Section 6: SE¼NW¼, S½NE¼, E½SW¼, SE¼, Lots 3, 4, 5, 6, 7
Section 7: NW¼

The authority for this closure is 43 CFR 8341.2.

James L. Hancock,

District Manager.

[FR Doc. 91-22238 Filed 9-16-91; 8:45 am]

BILLING CODE 4310-33-M

[NM-030-01-4322-14]

Las Cruces District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The meeting will be held at the Macey Center at the Institute of

Mining and Technology which is located on Olive Street in Socorro, New Mexico. The agenda for the meeting follows:

1. 10 a.m. Meeting Called to Order
2. 10:05 a.m. Brief Introduction
3. 10:10 a.m. Discussion and Approval of Previous Minutes
4. 10:30 a.m. Discussion on Status of 8100 Range Improvement Projects
5. 11:30 a.m. Follow-up Discussion on Fencing Standards
6. 12:00 noon Lunch
7. 1 p.m. Presentation of New Project/Activity Plans
8. 2 p.m. Public Comment Time
9. 2:30 p.m. Finish Presentations
10. 3.30 p.m. Information Session
11. 4:30 p.m. Adjourn Meeting

DATE: October 2, 1991, beginning at 10 a.m.

FOR FURTHER INFORMATION CONTACT: Robert R. Calkins, Acting District Manager, BLM Las Cruces District, 1800 Marquess, Las Cruces, New Mexico or at (505) 525–8228.

Dated: September 5, 1991.

Josie Banegas,

Acting District Manager.

[FR Doc. 91–22239 Filed 9–16–91; 8:45 am]

BILLING CODE 4310–FB–M

[NM–030–01–4210–13]

Exchange of Public Land; Socorro, Catron, and Sierra Counties, NM

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The following described lands and interests therein have been examined and determined to be suitable for transfer out of Federal ownership by exchange under Section 206 of the Federal Land Policy and Management Act of 1976 (43 USC 1716).

NOTE: Not all of the lands identified below will be involved in the exchange. Some may be deleted to eliminate possible conflicts that could arise during processing. The final selection of properties will be made to achieve comparable values between the offered and selected lands.

Selected Public Land

Group 1

Socorro County

T. 3 S, R. 1 W. NMPM
Sec. 25, W½E½ (portion)
Total: 90.28 acres
Proponent: Wes Burris

Group 2

Socorro County

T. 7 S., R. 3 W., NMPM
Sec. 31, Lot 3, N½SE¼, and NE¼SW¼.
T. 7 S., R. 4 W., NMPM
Sec. 9, lot 1;
Sec. 13, lots 1 to 4 inclusive, and lots 6 and 7, W½NW¼, and E½W½;
Sec. 14, lots 1 to 4, inclusive;
Sec. 21, lot 1;
Sec. 22, lot 1;
Sec. 23, NE¼;
Sec. 27, lots 1 to 5, inclusive;
Sec. 28, lots 1 to 4, inclusive;
Sec. 33, lots 1 to 4, inclusive;
Sec. 34, lots 1, 2, and 3, W½NE¼, SE¼ NE¼, and E½NW¼;
Sec. 35, lot 1, N½NE¼, and NE¼NW¼;
Sec. 36, lots 1 to 4, inclusive.
T. 8 S., R. 4 W., NMPM
Sec. 9, NE¼SE¼;
Sec. 26, SE¼.
Including all minerals
Total: 1,541.94 Acres
Proponent: Eunice Dean Nunn

Group 3

Socorro County

T. 8 S., R. 4 W., NMPM
Sec. 35, S½S½SE¼.
T. 9 S., R. 4 W., NMPM
Sec. 1, lots 2, 3, and 4, SW¼NE¼, S½ NW¼, SW¼, and W½SE¼;
Sec. 3, S½NE¼;
Sec. 4, lot 1, and N½NE¼SW¼;
Sec. 11, N½SW¼NE¼, and SE¼NE¼.
Including all minerals
Total: 718.56 Acres
Proponent: Truman V. Hatley and Wilma H. Hatley

Group 4

Catron County

T. 3 S., R. 9 W., NMPM
Sec. 26, S½;
Sec. 27, S½;
Sec. 28, S½;
Sec. 29, S½;
Sec. 30, lots 3, 4, E½SW¼, and SE¼.
Total: 1,602.61 Acres
Proponent: Marvin Ake

Group 5

Socorro County

T. 2 S., R. 4 W., NMPM
Sec. 21, NW¼SE¼, N½SW¼, and SW¼ SW¼;
Sec. 29, NW¼NE¼, and N½NW¼.
Total: 280.00 acres
Proponent: Wilma Huggett

Group 6

Socorro County

T. 2 S., R. 4 W., NMPM
Sec. 21, lots 3, 4, and 5, SW¼NE¼, W½ NW¼.
Total: 217.10 Acres
Proponent: James Gregg

Group 7

Catron County

T. 3 N., R. 11 W., NMPM
Sec. 12, All.
Total: 640.00 Acres
Proponent: Carole Roberson

Group 8

Socorro County

Subgroup 8A

T. 2 S., R. 4 W., NMPM
Sec. 30, lots 1, 2, and 3, NE¼, E½NW¼, and NE¼SW¼.
Total: 390.16 Acres

Subgroup 8B

T. 2 S., R. 5 W., NMPM
Sec. 25, E½NE¼, E½SW¼, and SE¼.
Total: 320.00 Acres

Subgroup 8C

T. 2 S., R. 5 W., NMPM
Sec. 26, lot 1.
Total: 4.01 Acres
Proponent: T–3 Ranch, Inc.

Group 9

Catron County

Subgroup 9A

T. 9 S., R. 10 W., NMPM
Sec. 4, N½, W½SW¼, and SE¼SW¼.
T. 9 S., R. 11 W., NMPM
Sec. 14, NE¼NW¼/.
Total: 480.00 Acres

Subgroup 9B

T. 8 S., R. 10 W., NMPM
Sec. 1, lots 1, 2, and 3, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 12, S½.
T. 8 S., R. 12 W., NMPM
Sec. 21, E½NE¼, and SE¼SE¼.
Total: 919.87 Acres
Proponent: Adobe Ranch Partners

Group 10

Socorro County

Subgroup 10A

T. 4 S., R. 6 W., NMPM
Sec. 5, lot 3, NE¼NW¼, S½NW¼, and SW¼;
Sec. 6, lots 1 and 2, S½NE¼, and SE¼.
Total: 641.04 Acres

Catron County

Subgroup 10B

T. 3 S., R. 12 W., NMPM
Sec. 34, SW¼NW¼;
Sec. 35, E½SE¼.
Total: 120.00 Acres
Proponent: Elliott G. McMaster

Group 11

Socorro County

Subgroup 11A

T. 7 S., R. 8 W., NMPM
Sec. 27, A11;
Sec. 33, W½W½;
Sec. 34, E½W½;
Sec. 35, S½NW¼, and S½.
T. 8 S., R. 8 W., NMPM
Sec. 5, E½SE¼, and SW¼;
Sec. 8, W½SE¼, and SE¼SE¼.
Total: 1,720.00 Acres

Catron County

Subgroup 11B

T. 8 S., R. 9 W., NMPM
Sec. 1, lot 4, SW¼NW¼, and SW¼.

Total: 240.35 Acres
Proponents: Clay W. Henderson and Anna Lee Henderson

Group 12

Catron County

T. 3 N., R. 17 W., NMPM
Sec. 17, S½S½;
Sec. 31, NE¼, E½NW¼, and N½SE¼.
Total: 480.00 Acres
Proponents: Viola L. Orona

Group 13

Socorro County

T. 2 N., R. 4 E., NMPM
Sec. 3, lots 1 and 2;
Sec. 10, lots 1 to 4, inclusive, E½NE¼, and SE¼.
Total: 468.03 Acres
Proponent: Carmen McCleary

Group 14

Catron County

T. 2 N., R. 12 W., NMPM
Sec. 18, lots 2, 3, and 4, SE¼NW¼, and NE¼SW¼.
T. 2 N., R. 13 W., NMPM
Sec. 24, N½NE¼, SW¼NE¼, SE¼NW¼, E½SW¼, and W½SE¼.
Total: 526.03 Acres
Proponents: Marvin Davis and Vera Davis

Group 15

Socorro County

T. 2 S., R. 4 W., NMPM
Sec. 25, lots 11 and 18;
Sec. 36, lots 6 to 9, inclusive, and lots 11, and 12.
Total: 51.81 Acres
Proponent: Claude Wallace

Group 16

Catron County

T. 2 S., R. 10 W., NMPM
Sec. 13, W½SW¼, and SE¼SW¼;
Sec. 14, N½SE¼SE¼, N½SW¼SE¼SE¼, SE¼SW¼SE¼SE¼, and SE¼SE¼SE¼;
Sec. 24, N½NW¼, and SE¼NW¼.
Total: 277.50 Acres
Proponent: Vera Turner

Group 17

Catron County

T. 1 N., R. 12 W., NMPM
Sec. 19, lot 3, and NE¼SW¼.
T. 1 N., R. 13 W., NMPM
Sec. 13, SE¼SW¼, and S½SE¼;
Sec. 24, NE¼, NE¼NW¼, N½SE¼, and SE¼SE¼.
Total: 520.19 Acres
Proponent: Tim McCoy

Group 18

Catron County

Subgroup 18A

T. 7 S., R. 9 W., NMPM
Sec. 15, N½N½;
Sec. 17, S½.
Total: 480.00 Acres

Subgroup 18B

Catron County

T. 7 S., R. 9 W., NMPM
Sec. 25, N½N½, NW¼SW¼, E½SW¼, and SE¼.

Socorro County

T. 7 S., R. 8 W., NMPM
Sec. 30, lot 4, SE¼SW¼, and S½SE¼.
Total: 597.37 Acres
Proponent: W. R. Edwards, Jr.

Group 19

Catron County

Subgroup 19A

T. 1 N., R. 16 W., NMPM
Sec. 22, W½NW¼;
Sec. 29, SE¼NW¼;
Sec. 34, E½SE¼.
Total: Total: 200.00 Acres

Subgroup 19B

T. 2 S., R. 18 W., NMPM
Sec. 3, lots 1 and 2, S½NE¼, and SE¼;
Sec. 9, SE¼;
Sec. 10, NE¼, and S½.
Total: 960.76 Acres
Proponent: Jim Williams

Group 20

Catron County

T. 2 S., R. 9 W., NMPM
Sec. 19, S½SE¼;
Sec. 20, SW¼, W½SE¼, SE¼SE¼;
Sec. 21, S½SW¼;
Sec. 28, W½;
Sec. 29, A11;
Sec. 30, E½;
Sec. 33, W½.
Total: 2,040 Acres
Proponent: John Hand

Group 21

Subgroup 21A

Socorro County

T. 3 S., R. 8 W., NMPM
Sec. 7, lots 1, 2, 3, N½NE¼, E½NW¼, and NE¼SW¼.

Catron County

T. 3 S., R. 9 W., NMPM
Sec. 11, All;
Sec. 12, N½, and N½S½.
Total: 1,436.25 Acres

Subgroup 21B

Catron County

T. 3 S., R. 9 W. NMPM
Sec. 28, N½;
Sec. 29, N½;
Sec. 30, lots 1, 2, NE¼, and E½NW¼.
T. 3 S., R. 10 W., NMPM
Sec. 25, NE¼.
Total: 1,122.73 Acres
Proponent: John Hand

Group 22

Catron County

T. 2 N., R. 15 W., NMPM
Sec. 9, S½.
Total: 320.00 Acres
Proponents: Jim Carroll and Phyliss Carroll

Group 23

Socorro County

T. 8 S., R. 4 W., NMPM
Sec. 35, NE¼, N½SE¼, and N½S½SE¼.
Total: 280.00 Acres
Including All Minerals
Proponent: Bill Shivers

Group 24

Socorro County

T. 1 N., R. 3 W., NMPM
Sec. 26, SW¼SW¼;
Sec. 35, NW¼.
Total: 200.00 Acres
Proponents: Ross Ligon and Patsy K. Ligon

Group 25

Sierra County

T. 10 S., R. 4 W., NMPM
Sec. 1, lots 2, 3, and 4, SW¼NE¼, S½NW¼, N½SW¼, and NW¼SE¼.
Total: 359.11 Acres
Proponents: Beryl Kleitz, Velma Kleitz and Rex Kleitz

Group 26

Socorro County

T. 5 S., R. 1 E., NMPM
Sec. 4, lot 41.
Total: 16.93 Acres
Proponent: Esquipula Vigil, Jr.

Group 27

Socorro County

T. 5 S., R. 1 E., NMPM
Sec. 4, lot 40.
Total: 16.92 Acres
Proponents: Cleto and Ruby Vasquez

Group 28

Socorro County

T. 5 S., R. 1 E., NMPM
Sec. 4, lot 38.
Total: 7.74 Acres
Proponents: Melvin and Josie Cole

Group 29

Catron County

T. 5 S., R. 16 W., NMPM
Sec. 8, tracts 40 and 46.
Total: 1.79 Acres
Proponent: Lugarda Gibbons

Group 30

Catron County

T. 5 S., R. 16 W., NMPM
Sec. 8, tracts 37 and 41.
Total: 3.34 Acres
Proponent: Samuel Gutierrez

Group 31

Socorro County

T. 2 S., R. 1 E., NMPM
Sec. 31, lot 11.
Total: 2.76 Acres
Proponent: Cornelio Gonzales, et al

Group 32

Socorro County

T. 4 S., R. 1 E., NMPM
Sec. 33, lot 17.
Total: 17.20 Acres
Proponent: Charles Headen

Group 33

Socorro County

T. 4 S., R. 1 E., NMPM
Sec. 18, lot 21.
Total: 5.78 Acres
Proponent: Calvin and Liz Cryer

Total acres of selected BLM public land: 15,406.86 Acres.

Offered Deeded Properties

Catron County

T. 7 S., R. 13 W., NMPM
Sec. 32, All;
Sec. 34, S½;
Sec. 36, All;
T. 7 S., R. 14 W., NMPM
Sec. 36, All.
T. 8 S., R. 13 W., NMPM
Sec. 2, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 3, lots 3 and 4, S½NW¼, and SW¼;
Sec. 4, lots 1 and 2, S½NE¼, and SE¼;
Sec. 5, S½NE¼, and SE¼NW¼;
Sec. 8, lots 2 to 6, inclusive;
Sec. 9, N½;
Sec. 16, All;
Sec. 19, NE¼SE¼, and S½SE¼;
Sec. 20, S½, E½NE¼, and SW¼NE¼;
Sec. 21, All;
Sec. 28, All;
Sec. 29, lots 1 to 16, inclusive;
Sec. 30, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 31, lots 1 to 4, inclusive, E½W½, and NE¼;
Sec. 32, N¼, E½NW¼, SW¼NW¼, and S½;
T. 8 S., R. 14 W., NMPM
Sec. 2, lots to to 4, inclusive, S½N½, and S½;
Sec. 3, NE¼SW¼;
Sec. 11, SW¼SE¼;
Sec. 12, All;
Sec. 13, N½S½, and N½;
Sec. 14, N½S½, and N½.
Containing 12,330.93 acres, more or less.

DATES: On or before [November 1, 1991], interested parties may submit written comments to the Socorro Resource Area Manager at the address shown below. Comments must specify the legal description (Township, Range, Section and Subsection) of the specific parcel affected by the comment. Any adverse comments will be evaluated by the New Mexico State Director, Bureau of Land Management, who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

ADDRESSES: Detailed information concerning this exchange, including the environmental assessment, is available for review at the Socorro Resource Area Office, 198 Neel Avenue, NW, Socorro, New Mexico, 87801.

FOR FURTHER INFORMATION CONTACT: Jon Hertz, Socorro Resource Area Office, at (505) 835-0412.

SUPPLEMENTARY INFORMATION: The purpose of this exchange is to improve the resource management programs of the BLM and that of private property holders represented by Shepard and Associates. The public land to be exchanged is relatively isolated parcels, in most cases lacking legal access. The private land being offered has important wilderness, recreation, wildlife habitat, and scenic values and when acquired will provide improved access to existing public land. Once acquired, these offered lands will be managed for multiple-use along with the adjoining public land. Only the surface estate of both public and private lands will be exchanged, with the exception of offered land in Groups 2, 3, and 23, in which the Federal mineral estate will be also be transferred. The public interest will be well served by making this exchange, and the exchange is consistent with the Bureau's resource management plans. The value of the lands to be exchanged will be approximately equal, as the acreage will be adjusted to bring the values as close as possible upon completion of the final appraisal of the lands. Full equalization of values will be achieved by payment to the United States of funds in an amount not to exceed 25 percent of the total value of the public land to be transferred.

The public land to be transferred from the United States will be subject to the following reservations, terms, and conditions:

1. All valid and existing access road rights-of-way and easements.

2. A reservation to the United States for a right-of-way for ditches or canals constructed by the authority of the United States under the Act of August 30, 1890 (43 USC 945).

3. A reservation to the United States for all minerals in the lands subject to this conveyance (expecting those lands in Groups 2, 3, and 23), together with the right to prospect for, mine, and remove same.

4. A reservation to the United States to allow entry into certain properties for the purpose of mitigating cultural sites.

5. Floodplain restrictions pursuant to Executive Order 11988 will be incorporated into the patents in Groups 27, 28, 29, 30 and 31.

6. Wetland restrictions pursuant to Solicitor's Opinion, BLM SA 0057, will be incorporated into the patent in Group 28.

7. Patents for Groups 29 and 30 will be issued subject to an existing Catron County Road known as First Street.

8. Group 29 proponent will, upon issuance of patent, be required to simultaneously grant an easement to the Aragon Community Water Users Association for an existing water tower and 15-foot wide access road.

9. Group 30 proponent will, upon issuance of patent be required to simultaneously grant an easement to the Aragon Community Water Users Association for an existing 15-foot wide access road.

10. Subject to the following authorized uses:

Group 2

NM NM 82570—Socorro County Road 54
NM NM 45791—Western New Mexico Telephone Co. (WNMTC)
NM NM 048608—Socorro Electric Cooperative (SEC)
NM NM 35199—New Mexico State Highway Department (NMSHD)
NM NM 82565—Socorro County Road 49

Group 3

NM LC 054537—NMSHD
NM NM 45791—WNMTC
NM NM 77481—SEC
NM NM 82775—Socorro County Road 60
NM NM 82574—Socorro County Road 58

Group 4

NM NM 44013—Corps of Engineers, Very Large Array
NM NM 52225—WNMTC
NM NM 014159—SEC
NM NM 83771—Catron County Road BO 52

Group 5

NM NM 77378—American Telephone & Telegraph Company (AT&T)
NM NM 014159—SEC
NM NM 22987—SEC
NM NM 0467885—AT&T

Group 6

NM NM 44366—SEC
NM NM 45791—WNMTC

Group 8

NM NM 014159—SEC
NM NM 0467885—AT&T
NM NM 45791—WNMTC
NM NM 033867—NMSHD
NM NM 77499—Socorro County Road 10

Group 9

NM NM 77514—El Paso Electric Co.

Group 10

NM NM 45791—WNMTC
NM NM 52194—NMSHD

Group 11

NM NM 77503—Socorro County Road BO 15

Group 13

NM NM 18180—SEC
NM SF 076574—NMSHD
NM NM 046971—NMSHD
NM NM 75583—Eastern New Mexico Rural Telephone Corporation, Inc.

NM NM 04968—Plains Electric
NM NM 77377—AT&T

Group 15

NM NM 82585—Socorro County Road No. 15A

Group 17

NM NM 0558875—Catron County Commission
NM NM 055887501—Catron County Commission
NM NM 0253970—WNMTC
NM NM 0220382—WNMTC
NM NM 52190—WNMTC
NM NM 014159—SEC
NM NM 14875—Pie Town Water Users Association
NM SF 076459—NMSHD

Group 19

NM NM 52190—WNMTC
NM NM 61527—Union Pacific Res. Co. and Dugan Production Corp.

Group 20

NM NM 83771—Catron County Road BO 53
NM NM 61693—Shell Western Oil & Gas Lease

Group 21

NM NM 83772—Catron County Road BO 53
NM NM 62517—Love Oil Company Inc., Oil and Gas Lease

Group 22

NM NM 52190—WNMTC

Group 23

NM NM 77481—SEC
NM NM 77507—Socorro County Road No. 29
NM NM 82574—Socorro County Road No. 58

Group 24

NM NM 014159—SEC

Group 25

NM NM 05592—Bureau of Reclamation
NM NM 067918—Plains Electric G&T

Group 33

NM NM 83794—Calvin Cryer, Water Control Structure

Publication in the **Federal Register** segregates the public land, described above, from appropriation under the public land laws, including the mining laws, but not from exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976. The segregative effect of this notice will terminate upon issuance of patent or 2 years from the date of publication in the **Federal Register**, whichever occurs first.

Dated: September 11, 1991.

Robert R. Calkins,

Acting District Manager.

[FR Doc. 91-22285 Filed 9-16-91; 8:45 am]

BILLING CODE 4310-FB-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31938]

Lackawanna Railway, Inc.—Acquisition and Operation Exemption, Lines of Consolidated Rail Corp. and Lackawanna County Rail Authority

On August 30, 1991, Lackawanna Railway, Inc. (LARY), a noncarrier controlled by Steve May (May), filed a notice of exemption for acquisition and operation of 33 miles of rail line, around Scranton, PA.[1] LARY will purchase and operate the 2-mile Scranton Cluster, and will lease from the Lackawanna County Rail Authority (LCRA) and operate the remaining 31 miles of rail line. May also controls the Lackawanna Valley Railroad Corporation (LVAL), a Class III rail carrier which connects with the rail line at issue here. As a result, May has sought exemption in a related proceeding from the prior approval requirements of 49 U.S.C. 11343–44 to continue in control of LVAL and LARY once LARY becomes a rail common carrier. See Finance Docket No. 31937, Steve May—Control Exemption—Lackawanna Valley Railroad Corporation and Lackawanna Railway, Inc. The transactions are expected to be consummated on or before September 12, 1991.

Any comments must be filed with the Commission and served on: John D. Heffner, Suite 1107, 1700 K St., NW., Washington, DC 20006, and John Paylor, Law Department, Consolidated Rail Corporation, Six Penn Center, Philadelphia, PA 19103.

LARY shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the line that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

[1] The 33 miles are composed of: (1) The Scranton Cluster, currently owned by Consolidated Rail Corporation (Conrail), from milepost 134.0 to milepost 132.0 in Scranton; (2) the former Conrail Scranton Branch, abandoned and currently owned by the City of Scranton, from milepost 132.0 in Scranton to milepost 120.0 at Moscow, PA; and (3) the former Conrail Scranton Branch, abandoned and currently owned by Steamtown Foundation, from milepost 120.0 at Moscow to milepost 101.0 at Mt. Pocono, PA, including the rail yard at the Mt. Pocono Automobile and Loading Terminal which is still owned by Conrail.

Decided: September 9, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland,

Secretary.

[FR Doc. 91-22267 Filed 9-16-91; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31928]

Wisconsin & Michigan Railway Co.—Operation Exemption Between Mellen, WI, and Bessemer, MI

Wisconsin & Michigan Railway Company (W&M), a noncarrier, has filed a notice of exemption to operate 32.38 miles of track owned by Wisconsin Central Ltd. (WCL). The track is an abandoned portion of Soo Line Railroad Company's Mellen-Bessemer Branch [1] and extends between milepost 411.0 (approximately one mile east of the connection of the Mellen-Bessemer Branch with WCL's Prentice-Ashland Branch, at Mellen, WI) and milepost 443.38, near Bessemer, MI. WCL purchased the track in 1991, but has not operated it as a line of railroad. WMR will become a class III rail carrier. The transaction was to be consummated (operations commence) on or shortly after the August 26, 1991, effective date of this exemption.

WMR shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the line 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470.

Any comments must be filed with the Commission and served on: Stephen C. Herman, Belnap, Spencer, McFarland & Herman, 225 West Washington Street, Chicago, IL 60606-3418.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: September 6, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-22668 Filed 9-16-91; 8:45 am]

BILLING CODE 7035-01-M

[1] *See* Docket No. AB-57 (Sub-No. 21X), Soo Line Railroad Company—Abandonment Exemption—In Ashland and Iron Counties, WI, and Gogebic County, MI (not printed), served February 5, 1987

[Finance Docket No. 31937]

Steve May; Control Exemption, Lackawanna Valley Railroad Corp. and Lackawanna Railway, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission, under 49 U.S.C. 10505, exempts Steve May from the requirements of 49 U.S.C. 11343 to continue in control of Lackawanna Railway, Inc. (LARY) when it becomes a rail common carrier through the acquisition and operation of certain rail lines between Scranton and Mt. Pocono, PA, subject to standard labor protective conditions. LARY will connect with the Lackawanna Valley Railroad Corporation, a Class III rail common carrier already controlled by May. This exemption is related to the notice of exemption filed concurrently in Finance Docket No. 31938.

DATES: This exemption is effective on September 12, 1991. Petitions to reopen must be filed by October 7, 1991.

ADDRESSES: Send pleadings referring to Finance Docket No. 31937 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: John D. Heffner, Esq., Suite 1107, 1700 K Street, NW., Washington, DC 20006

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 275–7245. (TDD for hearing impaired: (202) 275–1721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 275–1721.)

Decided: September 9, 1991.

By the Commission, Chairman Philbin, Vice Chairman Emmett, Commissioners Simmons, Phillips, and McDonald.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91–22264 Filed 9–16–91; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31924]

Minnesota Zephyr Limited—Operation Exemption Between East of Hudson, WI, and Minneapolis and Duluth Junction, MN

Minnesota Zephyr Limited (Zephyr) has filed a notice of exemption to operate as a class III rail carrier, in special interstate passenger service, over two routes totaling approximately 50.8 miles of tract, including 44.4 miles of line of the Chicago and North Western Transportation Company (CNW), 0.6 miles of line of Burlington Northern Railroad Company (BN), and 5.8 miles of line of the Minnesota Transportation Museum, Inc. (MTM). The transaction was to be consummated soon after September 1, 1991.

Both routes have a terminus in common: CNW milepost 38.9, at a point east of Hudson, WI. The first route extends between CNW milepost 0.0, at Minneapolis, MN, and CNW milepost 38.9. The second route extends between CNW milepost 38.9 and Duluth Junction, MN, as follows: from CNW milepost 38.9 to CNW milepost 18.4, at Lakeland Junction, MN, then to CNW milepost 12.9, at Stillwater, MN, then from BN milepost 12.73 to BN milepost 12.19, at Stillwater, and then from MTM milepost 12.19, at Stillwater, to MTM milepost 6.39, at Duluth Junction. Under an agreement with MTM, Zephyr currently conducts intrastate passenger service over the involved MTM and BN lines.

Any comments must be filed with the Commission and served on: Louis E. Gitomer, Suite 1200, 1133 15th Street, NW, Washington, DC 20005.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ad initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: September 6, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91–22265 Filed 9–16–91; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31868]

Wabash & Grand River Railway Co.; Acquisition and Operation Exemption, CSX Transportation, Inc., Line Between Flomaton and Corduroy, AL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission, under 49 U.S.C. 10505, exempts from the prior approval requirements of 49 U.S.C. 11343, *et seq.*, the acquisition and operation by Wabash & Grand River Railway Company of 60.7 miles of railroad from Flomaton (milepost 607.73) to Corduroy, AL (milepost 666.3), including the M&R Junction Spur between Valuation Stations 0+00 and 90+81 and the Vredenburg Branch between Valuation Stations 0+00 and 19+92, from CSX Transportation, Inc., subject to standard employee protective conditions.

DATES: The exemption will be effective on October 13, 1991. Petitions for reconsideration must be filed by October 3, 1991.

ADDRESSES: Send pleadings referring to Finance Docket No. 31868 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioners' representative: John D. Heffner, Esq., Suite 1107, 1700 K Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245 (TDD for hearing impaired: (202) 275–1721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359.

Decided: September 9, 1991.

By the Commission, Chairman Philbin, Vice Chairman Emmett, Commissioners Simmons, Phillips and McDonald.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91–22266 Filed 9–16–91; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–55 (Sub–No. 394X)]

CSX Transportation, Inc.—Abandonment Exemption—in Raleigh County, WV; Exemption

Applicant has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon a 8.27-mile line of railroad between milepost 5.45, at Pemberton, and milepost 13.72, at Stotesbury, Raleigh County, WV.

Applicant has certified that: (1) No local traffic has moved over the line for

at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on October 17, 1991 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by September 27, 1991.[3] Petitions for reconsideration or requests for public use conditions under 49 CFR 1152.28 must be filed by October 7, 1991, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Karen Anne Koster, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by September 20, 1991. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275–7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: September 10, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91–22314 Filed 9–16–91; 8:45 am]

BILLING CODE 7035–01–M

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987)

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

Fellowship Nomination and Application Coordinator Information Collection

AGENCY: James Madison Memorial Fellowship Foundation.

ACTION: Request for information.

SUMMARY: The information sought on these proposed forms will help implement the James Madison Memorial Fellowship Act of 1986. The information gathered will enable the Foundation to distribute fellowship application forms to those individuals who are nominated for fellowships by Nomination and Application Coordinators on various college and university campuses and within various schools and school districts throughout the country.

DATES: Comments must be submitted in writing on or before September 24, 1991.

ADDRESSES: Send written comments to: James Madison Memorial Fellowship Foundation, 2000 K Street, NW, suite 303, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: James M. Banner, Jr., (202) 653–8700.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1980, the James Madison Memorial Fellowship Foundation has submitted a copy of the proposed forms to the Office of Management and Budget for its review (40 U.S.C. 3540(h)). Organizations and individuals desiring to submit comments on these information collection requirements should direct them to the Office of Information and Regulatory Affairs, room 3002, New Executive Office Building, Washington, DC 20503; Attention: Daniel J. Chenok. The annual public reporting burden for this collection of information is estimated to average 2 minutes per response for an anticipated 1500 applicants.

For the reasons set forth in the preamble and under authority of 20 U.S.C. 4501 et seq., the following information will be solicited on forms from Nomination and Application Coordinators of the James Madison Memorial Fellowship Program:

For nominees from among high school teachers of American history, American government, and social studies:

Nominee's legal name.
Nominee's legal addess.
Nominee's high school name.
Nominee's high school address.
Nominee's age.
Nominee's date of birth.
Nominee's home phone number.
Nominee's school phone number.

Whether nominee has at least three years of experience as a high school classroom teacher—yes or no.

Whether nominee is under contract or eligible for a prospective contract to teach full time in the forthcoming school year as a high school teacher of American history, American government, or social studies—yes or no.

Whether nominee is a United States citizen or a United States national—yes or no.

Signature of nomination and application coordinator.

Name of school or school district.

Address of school or school district office.

Date:

Coordinator's phone number.

Type of coordinator's school or school system—public, independent or parochial.

Location of coordinator's school or school system—urban, suburban, or rural.

For nominees from among prospective high school teachers of American history, American government, and social studies:

Nominee's legal name.
Nominee's legal residence.
Nominee's campus name.
Nominee's campus address.
Nominee's age.
Nominee's date of birth.
Nominee's home phone number.
Nominee's campus phone number.

If nominee is a current senior, is he or she matriculated for a baccalaureate degree—yes or no.

Date nominee is expected to receive degree.

Nominee's major field of study.

Nominee's current class rank (if known).

If nominee is a recent graduate of the college with a baccalaureate degree—yes or no.

Date nominee received degree.

Nominee's major field of study.

Nominee's class rank (if known).

If nominee's class rank is not known, whether nominee was in the upper third of his or her graduating class—yes or no.

Whether nominee is a United States citizen or a United States national—yes or no.

Signature of nomination and application coordinator.

Name of college or university.

Address of college or university.

Date.

Coordinator's phone number.

Type of coordinator's institution—four-year college, university college, private institution, or public institution.

Paul A. Yost, Jr.,

President.

[FR Doc. 91–22273 Filed 9–16–91; 8:45 am]

BILLING CODE 6820–05–M

DEPARTMENT OF JUSTICE

Consent Decree in Action Brought Under the Comprehensive Environmental Response, Compensation, and Liability Act and the Rivers and Harbors Act

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a consent decree in *United States* v. *City of Seattle and the Municipality of Metropolitan Seattle,* Civil Action No. C90–395WD, was lodged with the United States District Court for the Western District of Washington on September 10, 1991. This Consent Decree resolves a Complaint filed by the United States against the City of Seattle and the Municipality of Metropolitan Seattle pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9607, and section 13 of the Rivers and Harbors Act, 33 U.S.C. 407.

The United States Department of Justice brought this action on behalf of the National Oceanic and Atmospheric Administration seeking restoration of natural resources injured by releases of hazardous substances within Elliott Bay and the Duwamish River. The United States alleged that injury to natural resources resulted from discharges from combined sewer overflows ("CSOs") and storm drains owned and operated by the defendants.

Under the proposed Consent Decree, the defendants, in cooperation with the federal, state, and Muckleshoot and Suquamish Indian tribe trustees, will undertake a restoration program that will include sediment remediation, habitat development, and source control measures. The program will take place over a 5 year period and will have a value of approximately $24 million dollars.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044 and refer to *United States* v. *City of Seattle, et al.,* DOJ number 90–11–2–527.

Copies of the proposed Consent Decree may be examined at the Office of the United States Attorney, Western District of Washington, 3600 SeaFirst Fifth Avenue Plaza, 800 Fifth Avenue, Seattle, Washington, 98104 and at the National Oceanic and Atmospheric Administration, Office of the General Counsel, Damage Assessment and Restoration Center, NW., 7600 Sand Point Way, Seattle, Washington, 98115. Copies of the proposed Consent Decree may also be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004, (202) 347–7829. A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. When requesting a copy of the Consent Decree, please enclose a check in the amount of $11.75 payable to the "Consent Decree Library."

Barry M. Hartman,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 91–22287 Filed 9–16–91; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended), notice is hereby given of a meeting of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: October 24, 1991, 2 p.m.–4 p.m., rm. S–5310, Seminar Room 1–B, Department of Labor Building, 200 Constitution Ave., NW., Washington, DC 20210.

PURPOSE: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. section 552(c)(1). The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

FOR FURTHER INFORMATION, CONTACT: Fernand Lavallee, Director, Trade Advisory Group, phone (202) 523–2752.

Signed at Washington, DC this 12th day of September.

Shellyn G. McCaffrey,

Deputy Under Secretary, International Affairs.

[FR Doc. 91–22320 Filed 9–16–91; 8:45 am]

BILLING CODE 4510–28–M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance; ACPC, Inc. et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Admiration, has instituted investigations pursuant to section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to began and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 27, 1991.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment

Assistance, at the address shown below, not later than September 27, 1991.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 3rd day of September, 1991.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
ACPC, Inc AB&GW	Massena, NY	09/03/91	08/21/91	26,262	Cable.
Aeronca, Inc (IAM)	Middletown, OH	09/03/91	08/26/91	26,263	Aircraft Structures.
Aeroquip Corp (Wkrs)	Heber Springs, AR	09/03/91	08/20/91	26,264	A/C and Refrigeration Components.
Alcoa Fujikura Ltd (Wkrs)	Del Rio, TX	09/03/91	08/16/91	26,265	Harnesses.
Dunlop Tire Corp. (Wkrs)	Huntsville, AL	09/03/91	08/08/91	26,266	Passenger Automobile Tires.
Ellajo Fashions ILGWU	Nuremberg, PA	09/03/91	08/20/91	26,267	Sportswear.
Erica Shoes, Inc. ACTWU	Brooklyn, NY	09/03/91	08/20/91	26,268	Ladies' Shoes.
Fiber Materials, Inc. (Wkrs)	Biddeford, ME	09/03/91	08/16/91	26,269	Carbon Carbon Composites.
Fisher Price (Wkrs)	Murray, KY	09/03/91	08/15/91	26,270	Toys.
Gallitzin Apparel (Wkrs)	Gallitzin, PA	09/03/91	08/19/91	26,271	Apparel.
Inland Motor (Wkrs)	Sierra Vista, AZ	09/03/91	08/19/91	26,272	Amplifiers, Power Supplies.
International Drilling Fluids (Wkrs)	Williston, ND	09/03/91	08/05/91	26,273	Drilling Fluids.
L and A Swimwear Corp ILGWU	Westbury, NY	09/03/91	07/23/91	26,274	Bathing Suits.
Lehigh Coal and Navigation Co (UMWA)	Lansford, PA	09/03/91	08/18/91	26,275	Anthracite Coal.
Mid-West/Waltham Abrasives Co (UAW)	Owosso, MI	09/03/91	08/20/91	26,276	Abrasives.
Monarch Machine Tool (IAM)	Sidney, OH	09/03/91	08/25/91	26,277	Vertical Milling Machines.
Otting International, Inc (Wkrs)	Lafayette, GA	09/03/91	08/23/91	26,278	Textile Dyeing Equipment.
Owens-Brockway, Inc. GMPPAW	Freehold, NJ	09/03/91	08/08/91	26,279	Glass Containers.
Robertson Shake Mill, Inc. (Wkrs)	Chehalis, WA	09/03/91	08/22/91	26,280	Cedar Shakes & Shingles.
Shell Offshore, Inc (Wkrs)	New Orleans, LA	09/03/91	08/06/91	26,281	Oil, Gas Petro Chemicals.
St. Marys Carbon Co IUE	St. Marys, PA	09/03/91	08/23/91	26,282	Carbon Graphite.
Stauros Partners, Inc. (Wkrs)	Oklahoma City, OK	09/03/91	08/13/91	26,283	Crude Oil, Natural Gas.
Texscan Communications Products (Wkrs)	El Paso, TX	09/03/91	08/19/91	26,284	CATV Equipment Truck Stations.
U.S. Metalsource (USWA)	Coraopolis, PA	09/03/91	08/14/91	26,285	Steel.
United Apparel (Wkrs)	Newport, PA 17074	09/03/91	08/19/91	26,286	Better Dresses Evening Wear.

[FR Doc. 91-22321 Filed 9-16-91; 8:45 am]

BILLING CODE 4510-3-M

[TA-W-26,066]

Jerrold Communications—General Instrument Corp., Tucson, AZ; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 15, 1991 in response to a worker petition which was filed on July 15, 1991 on behalf of workers at Jerrold Communication—General Instrument Corporation, Tucson, Arizona.

The petitioning group of workers is subject to an ongoing investigation for which a determination has not yet been issued (TA-W-25,997). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 5th day of September 1991,

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 91-22322 Filed 9-16-91; 8:45 am]

BILLING CODE 4510-30-M

Bureau of Labor Statistics

Business Research Advisory Council Meetings and Agenda

The regular Fall meetings of the Board and Committees of the Business Research Advisory Council will be held on October 9 and 10, 1991. All of the meetings will be held in the General Accounting Office Building, 441 G Street, NW., Washington, DC.

The Business Research Advisory Board and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry.

The schedule and agenda for the meetings are as follows:

Wednesday, October 9, 1991

10 a.m.—Committee on Price Indexes

Room 2736

Agenda to be announced.

1:30 p.m.—Committee on Compensation and Working Conditions

Room 2736

1. Results from a First Time Survey of Employee Benefits in Small Establishments.
2. Information on Publication of Employers' Cost Levels for Employee Compensation by Size of Establishment using data collected for the Employment Cost Index Survey.
3. Compensation and Working Conditions: What's in a name?
4. Other business.

1:30 p.m.—Committee on Economic Growth

Room 2734

1. 1991 Activities:
   a. Recently released pamphlet, "Getting Back to Work".
   b. Occupational Outlook Quarterly highlights.
   c. Analysis of a paper prepared by Charles Bowman.
   d. Publication schedule for 1990-2005 projections.
2. FY 1992 Plans:
   a. Detailed Analysis of Scientists, Engineers, and Technicians being prepared for National Science Foundation.
   b. Planned analysis of changing structure of work.
   c. Data and model development plans.
   d. Criticism by Professor John Bishop of BLS projections and its implications.
3. Other business.

Thursday, October 10, 1991

9:30 a.m.—Committee on Employment and Unemployment

Room 2736

Agenda to be announced.

9:30 a.m.—Committee on Productivity-Foreign Labor

Room 2734

1. Work on information technology equipment and embodied technical change.
2. BLS work with Eastern European and Mexican statistical organizations.
3. Report on international comparisons of hourly compensation of production workers in manufacturing.

1 p.m.—Board of the Business Research Advisory Council

Room 2736

1. Chairperson's opening remarks.
2. Commissioner's remarks.
3. Committee reports:
a. Committee on Compensation and Working Conditions.
b. Committee on Productivity-Foreign Labor.
c. Committee on Employment and Unemployment.
d. Committee on Price Indexes.
e. Committee on Economic Growth.
4. Other business.
5. Chairperson's closing remarks.

The meetings are open to the public.

For further information contact, Constance B. DiCesare, Liaison, Business Research Advisory Council on area code (202) 523-1090.

Signed at Washington, DC the 10th day of September 1991.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 91-22323 Filed 9-16-91; 8:45 am]

BILLING CODE 4510-24-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

President's Committee on the Arts and the Humanities; Meeting

Thursday, October 3 at 10:30 o'clock in the morning has been designated by the President's Committee on the Arts and the Humanities for Meeting XXIV. This meeting will take place at 7 West 43rd Street, in New York City. This is a regularly scheduled meeting at which Mr. Harold Williams, Chairman, J. Paul Getty Trust will address the Committee. In addition, Mr. J. Carter Brown, Director of the National Gallery of Art will lead a panel discussion on the arts and the humanities in education.

The Committee, charged with exploring ways to increase private support for the arts and the humanities, has generated private funds which augment their operational costs and support projects and programs which have been initiated by the President's Committee.

Please call 202-682-5409 or 212-512-5957 if you expect to attend, as space is limited.

Dated: September 11, 1991.

Yvonne M. Sabine,

Director, Council & Panel Operations, National Endowment for the Arts.

[FR Doc. 91-2227 Filed 9-16-91; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

1. Type of submission, new, revision or extension: Revision.
2. Title of the information collection: 10 CFR parts 2 and 35—Quality Management Program and Misadministrations.
3. The form number if applicable: Not applicable.
4. How often the collection is required: For the quality management (QM) program:

Reporting: Develop a written QM program, submit a copy of the program and a certification to NRC by the effective date of the rule, one-time collection.

Recordkeeping: Records of annual review, recordable events, written directives, and administered dose or dosage, for 3 years.

For Misadministrations:

Reporting: Whenever a misadministration occurs.

Recordkeeping: Records of misadministrations for 5 years.

5. Who will be required or asked to report: Part 35 licensees regulated by NRC and similar type of licensees regulated by the Agreement States.
6. An estimate of the number of respondents: 3,300 respondents.
7. An estimate of the total number of hours needed to complete the requirements or request: 6,917 hours annually for all applicable licensees.
8. The average burden per respondent is about: 2 hours per year.
9. An indication of whether section 3504(h), Public Law 96-511 applies: Not applicable.
10. Abstract: The NRC is amending its regulations (10 CFR parts 2 and 35) to require applicable part 35 licensees to establish and maintain a written QM program to provide high confidence that byproduct material or radiation from byproduct material will be administered as directed by the authorized user physician. The amendment also requires applicable licensees to submit to NRC, by the effective date of the final amendment, a copy of the QM program and a certification indicating that the QM program has been implemented. This amendment is promulgated in order to enhance patient safety in a cost-effective manner while allowing the flexibility necessary to minimize intrusion into medical judgments. This amendment also modifies the notification, reporting, and recordkeeping requirements related to the QM program and misadministrations.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW., (Lower Level), Washington, DC.

Comments and questions should be directed by mail to the OMB reviewer as follows: Ronald Minsk, Office of Information and Regulatory Affairs, (3150-0010), NEOB-3019, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395-3084.

The NRC Clearance Officer is Brenda J. Shelton, (301) 492-8132.

Dated at Bethesda, Maryland, this 9th day of September 1991.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 91-22351 Filed 9-16-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-322]

Long Island Lighting Co.; (Shoreham Nuclear Power Station); Exemption

I

Long Island Lighting Company (LILCo or the licensee) is the holder of Facility License No. NPF-82, which authorizes the possession of the Shoreham Nuclear Power Station (the facility) but does not allow operation at any reactor power level. The license provides, among other things, that it is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (the Commission or NRC) now or hereafter in effect. The facility consists of a

boiling-water reactor located at the licensee's site in Suffolk County, New York, and is currently defueled with the fuel stored in the spent fuel pool.

II

By letter dated June 5, 1990, and as supplemented by letters dated August 31, 1990, and July 1, 1991, the Long Island Lighting Company (the licensee) requested an exemption concerning 10 CFR part 55 pertaining to the use of a simulation facility and requalification training requirements. The Shoreham Nuclear Power Station (SNPS) was permanently shut down on February 28, 1989, and defueled on August 9, 1989. Amendment No. 7 converting Facility Operating License No. NPF–82 to a possession only license was issued June 14, 1991. This license amendment provides, among other things, that Shoreham is not to be operated at any reactor power level and the fuel may not be placed into the reactor vessel without NRC approval.

III

The licensee's proposed action includes an exemption from 10 CFR 55.45(b), 55.33(a)(2), 55.59(a)(2), and 55.59(c)(3) to the extent that these regulations require the use of a simulation facility in implementing operating tests and on-the-job training. Additionally, the licensee's proposed action includes an exemption from 10 CFR 55.59(a)(2), (c)(2), (c)(3), and (c)(4) to the extent that these regulations pertain to granting and maintaining operator's licenses for operating power reactors.

LILCo is requesting this exemption from 10 CFR part 55 ("Operators' License") because part 55 delineates the operator training and requalification requirements that the part 50 licensee must follow in the course of obtaining and maintaining operators' licenses.

The request for an exemption from the requirements for a simulation facility and the requirements for requalification training related to operating power reactors is based (1) on the cessation of power operations at SNPS, (2) the defueling of the reactor vessel with the fuel stored in the spent fuel pool on August 9, 1989, and (3) the issuance of the possession only license amendment dated June 14, 1991, prohibiting operation of the SNPS reactor. Defueling the reactor was the last major action associated with Shoreham as a normal operational nuclear facility. In contrast, the requirements of 10 CFR part 55 for a simulation facility are designed for operating power reactors. There are no plant-referenced simulator devices that reflect the current defueled condition of SNPS. Likewise, the requalification requirements of 10 CFR 55.59 are designed for the complex operations associated with an operating plant from start-up through full-power operation. With SNPS in a defueled condition and not authorized to operate, the facility is in a static condition with little or no change in day-to-day operating activities. The knowledge required of operators in a defueled status is far less than that required for an operating facility.

With the reactor vessel defueled and the licensee not licensed to resume power operation at SNPS, design-basis accidents associated with an operating plant from start-up through full-power operation are no longer credible. Design-basis accidents for a nuclear facility in a defueled condition are all associated with a loss of fuel pool water inventory or with fuel handling. Because of the geometric storage arrangement of the fuel assemblies underwater, a criticality accident is not considered likely. In addition, the possession only license condition prohibiting movement of the fuel to the reactor vessel further diminishes the possibility of a fuel-handling accident.

In the defueled condition, the principal operator activity will be to monitor the spent fuel pool storage facility to assure the continued safe storage of special nuclear material so that the public health and safety is not compromised. This exemption would enable the licensee to continue to train its operators for their principal activities without a simulation facility and without expending excessive resources and time training personnel for unrelated power activities. The remaining requalification training to be accomplished without a simulation facility ensures protection of the public health and safety and is appropriate to the defueled condition of the plant.

The NRC staff has determined that requiring a simulation facility at SNPS and requiring the licensee to adhere to requalification standards geared to an operating power reactor while SNPS is in a permanently defueled status would not serve the underlying purpose of the regulations. Therefore, a special circumstance as defined in 10 CFR 50.12(a)(2)(ii) exists.

For these reasons, the Commission finds the licensee has provided an acceptable basis to authorize the granting of an exemption in accordance with the provision of 10 CFR 55.11.

IV

Accordingly, the Commission has determined that pursuant to 10 CFR 55.11, this exemption is authorized by law and will not endanger life or property and is otherwise in the public interest. The Commission further determines that special circumstances as provided in 10 CFR 50.12(a)(2)(ii) are present to justify the exemption. The referenced special circumstances pertain to exemptions to regulations that do not alter the underlying purpose of the regulations.

Based on the foregoing, the Commission hereby grants the following exemption:

The Shoreham Nuclear Power Station is exempt from the requirements of 10 CFR 55.45(b), 55.33(a)(2), 55.59(a)(2), and 55.59(c)(3) to the extent that these regulations require the use of a simulation facility. Additionally, the Shoreham Nuclear Power Station is exempt from the requirements of 10 CFR 55.59 (a)(2), (c)(2), (c)(3), and (c)(4) only to the extent that these regulations pertain to power operations of operating power reactors.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (56 FR 46209, dated September 10, 1991).

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 11th day of September 1991.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Director, Division of Advanced Reactors and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 91–22352 Filed 9–16–91; 8:45 am]

BILLING CODE 7950–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Application To Withdraw from Listing and Registration; (Lone Star Industries, Inc., Common Stock, $1 Par Value; Rights to Purchase Series A Junior Participating Preferred Stock) File No. 1–2333

September 11, 1991.

Lone Start Industries, Inc. ("Company") has filed an application with the Securities and Exchange Commission, pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified securities from listing and registration on the Boston Stock Exchange, Inc. ("BSE") and Pacific Stock Exchange, Inc. ("PSE").

The reasons alleged in the application for withdrawing these securities from

listing and registration include the following:

Lone Star Industries, Inc. ("Company") is withdrawing its shares of Common Stock, Par Value $1 and its Rights to Purchase Series A Junior Participating Preferred Stock from listing and registration on the BSE and the PSE, because the Company has filed for reorganization under Chapter 11 of the Federal Bankruptcy Code and it is presently operating its business as a Debtor-In-Possession.

The Company believes that it is in its best interests to reduce expenses insofar as possible and that the withdrawal of these listings will facilitate this objective.

Any interested person may, on or before October 2, 1991 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-22261 Filed 9-16-91; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18302; 811-3041]

ProvidentMutual Federal Moneyfund, Inc.; Notice of Application

September 10, 1991.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: ProvidentMutual Federal Moneyfund, Inc.

RELEVANT ACT SECTION: Section 8(f) of the Act.

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on July 26, 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 applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 7, 1991, and should be accompanied by proof of service on the applicant, 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 who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, Christiana Executive Campus, 220 Continential Drive, Newark, Delaware 19713.

FOR FURTHER INFORMATION CONTACT: Elizabeth G. Osterman, Staff Attorney, at (202) 504-2524, or H.R. Hallock, Jr., Special Counsel, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified management company organized as a corporation under the laws of the State of Delaware. On April 9, 1980, applicant filed a Notification of Registration pursuant to section 8(a) of the Act and a Registration Statement pursuant to the Securities Act of 1933 and section 8(b) of the Act. The registration statement was declared effective and applicant's initial public offering was commenced on September 8, 1980.

2. At a meeting held on December 14, 1990, applicant's board of directors approved an agreement and plan of reorganization. On May 8, 1991, applicant mailed proxy materials relating to the proposed reorganization to its shareholders. Applicant's shareholders approved the reorganization at a special meeting held on May 29, 1991.

3. On May 29, 1991, pursuant to the agreement and plan of reorganization, applicant transferred substantially all of its assets to ProvidentMutual Federal Moneyfund, Inc. (the "Acquiror") in exchange for shares of the Acquiror's capital stock. Applicant distributed such shares of its shareholders *pro rata*. The transfer of applicant's assets in exchange for shares of Acquiror's capital stock was based on the relative net asset value of the funds.

4. Expenses incurred in connection with applicant's liquidation and dissolution were borne by applicant's investment adviser or the investment adviser's parent company.

5. Applicant has filed a certificate of dissolution with the Department of State of the State of Delaware.

6. As of the date of the application, applicant had no debts or liabilities and was not a party to any litigation or administrative proceeding.

7. Applicant is neither engaged in nor proposes to engage in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-22219 Filed 9-16-91; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended September 6, 1991

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 47728.
Date filed: September 4, 1991.
Parties: Members of the International Air Transport Association.
Subject: Telex dated August 27, 1991. Mail Vote 506 (Japan-Singapore fares).
Proposed Effective Date: October 29, 1991.

Docket Number: 47729.
Date filed: September 4, 1991.
Parties: Members of the International Air Transport Association.
Subject: Telex dated August 27, 1991. Mail Vote 507 (Middle East-S.W. Pacific excursion fares).
Proposed Effective Date: October 1, 1991.

Docket Number: 47739.
Date filed: September 6, 1991.
Parties: Members of the International Air Transport Association.
Subject: CAC/Reso/170 dated August 28, 1991. Finally Adopted Resolutions R-1 To R-15.
Proposed Effective Date: November 1, 1991.

Docket Number: 47740.
Date filed: September 6, 1991.

Parties: Members of the International Air Transport Association.

Subject: MV/CSC/021 dated July 30, 1991. MV S054.

Proposed Effective Date: October 1, 1991.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 91-22230 Filed 9-16-91; 8:45 am]

BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended September 6, 1991

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 47726.

Date filed: September 3, 1991.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 1, 1991.

Description: Application of American Airlines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations, applies for a certificate of public convenience and necessity authorizing scheduled foreign air transportation of persons, property, and mail between Nashville, Tennessee, and London, England (via Stansted Airport).

Docket Number: 47727.

Date filed: September 4, 1991.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 2, 1991.

Description: Application of Michael A. Spisak d/b/a Ram Aviation, pursuant to section 401 of the Act and subpart Q of the Regulations applies for a certificate of public convenience and necessity for an indefinite term to perform, interstate air transportation of persons, property and mail between the terminal points of Kotzebue and Noatak, Alaska.

Docket Number: 47730.

Date filed: September 5, 1991.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 3, 1991.

Description: Application of South African Airways, pursuant to section 402 of the Act and subpart Q of the Regulations seeks Third and Fourth Freedom authority to engage in regularly scheduled service and charter foreign air transportation of persons, property (i.e., baggage and cargo) and mail between any point or points in South Africa, its territories and possessions.

Docket Number: 47732.

Date filed: September 5, 1991.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 3, 1991.

Description: Application of Haytian Aviation Lines, S.A. d/b/a Halisa, pursuant to section 402 of the Act and subpart Q of the Regulations, applies for a foreign air carrier permit to engage in foreign air transportation between Port-Au-Prince, in the Republique of Haiti and Miami, Orlando, New York (JFK), and Boston, in the United States, as well as San Juan, Puerto Rico.

Docket Number: 47737.

Date filed: September 5, 1991.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 5, 1991.

Description: Application of Virgin Atlantic Airways Limited, pursuant to section 402 of the Act and subpart Q of the Regulations, requests an amendment of its foreign air carrier permit to perform regular scheduled combination air transportation of passengers, cargo and mail between London (Gatwick) and Orlando, Florida commencing May 21, 1992.

Docket Number: 47741.

Date filed: September 6, 1991.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 4, 1991.

Description: Application of Amerijet International, Inc. pursuant to section 401 of the Act and subpart Q of the Regulations, for a new or amended certificate of public convenience and necessity authorizing it to provide scheduled foreign air transportation of property and mail between any point or points in the United States and Anguilla, Dominica, Montserrat, St. Vincent and the Netherlands Antilles, and beyond. Amerijet also requests that it be permitted to combine this authority with its existing authority to serve points in the Caribbean and in Central and South America.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 91-22231 Filed 9-16-91; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Approval of Noise Compatibility Program, Bellingham International Airport, Bellingham, WA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the Executive Director of the Port of Bellingham under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR part 150. These findings are made in recognition of the description of Federal and non-Federal responsibilities in Senate Report No. 96-52 (1980).

On April 3, 1991, the FAA determined that the noise exposure maps submitted by the Executive Director of the Port of Bellingham under part 150 were in compliance with applicable requirements. On August 16, 1991, the Assistant Administrator for Airports approved the Bellingham International Airport noise compatibility program. All of the program elements were approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Bellingham International Airport noise compatibility program is August 16, 1991.

FOR FURTHER INFORMATION CONTACT: Dennis G. Ossenkop; Federal Aviation Administration; Northwest Mountain Region; Airports Division, ANM-611; 1601 Lind Avenue, SW., Renton, Washington, 98055-4056. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given overall approval to the noise compatibility program for Bellingham International Airport, effective August 16, 1991. Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such a program to be developed in consultation with interested and affected parties including the state, local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulation (FAR) part 150 is a local program, not a Federal program. The FAA does not substitute its judgement for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in part 150 and the Act and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Seattle, Washington.

The Port of Bellingham submitted to the FAA the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted at Bellingham International Airport. The Bellingham International Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on April 3, 1991. Notice of this determination was published in the Federal Register on April 11, 1991.

The Bellingham International Airport noise compatibility program contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to the year 1995. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 104(b) of the Act. The FAA began its review of the program on April 3, 1991 and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control).

Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained 6 proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR 150 have been satisfied. The overall program, therefore, was approved by the Assistant Administrator for Airports effective August 16, 1991. Outright approval was granted for all program elements.

These determinations are set forth in detail in a Record of Approval endorsed by the Assistant Administrator for Airports on August 16, 1991. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the Bellingham International Airport.

Issued in Seattle Washington on August 16, 1991.

Edward G. Tatum,

Manager, Airports Division Northwest Mountain Region.

[FR Doc. 91-22296 Filed 9-16-91; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA)

[Special Committee 170]

Minimum Operational Performance Standards for Automatic Dependent Surveillance (ADS); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., appendix I), notice is hereby given for the third meeting of Special Committee 170 to be held October 2-4, 1991, at Air Transportation Association of America, Fifth Floor, Conference Room A, 1709 New York Avenue, NW., Washington, DC 20006, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's introductory remarks; (2) Approval of minutes of the second meeting held on June 12-14, 1991, RTCA paper no. 331-91/SC170-14 (previously distributed); (3) Review of tasks assigned during previous meeting; (4) Continue development of draft Minimum Operational Performance Standards for Automatic Dependent Surveillance (ADS); (5) Assignment of tasks; (6) Other business; (9) Date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833-9339. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on September 4, 1991.

Joyce J. Gillen,

Designated Officer.

[FR Doc. 91-22294 Filed 9-16-91; 8:45 am]

BILLING CODE 4910-13-M

[Special Committee 171]

Airborne MLS Area Navigation Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., appendix I), notice is hereby given for the third meeting of Special Committee 171 to be held October 2-4, 1991 (working groups will meet individually on October 1), in the RTCA Conference Room, 1140 Connecticut Avenue, NW., suite 1020,

Washington, DC, 20036, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's remarks; (2) Approval of the second meeting's minutes, RTCA Paper No. 354–91/SC171–28; (3) Technical presentations; (a) On-board data base; (b) Data Link; (c) Other; (4) Working group reports; (a) Operations Working Group (WG–1); (b) Technical Working Group (WG–2); (c) Architecture/Certification (WG–3); (5) Review Task Assignments not covered in working group reports; (6) Working group sessions; (7) In plenary; (a) Working group progress; (b) Task assignment; (8) Other business; (9) Date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 30, 1991.

Joyce J. Gillen,

Designated Officer.

[FR Doc. 91–22295 Filed 9–16–91; 8:45 am]

BILLING CODE 4910–13–M

Federal Railroad Administration

[FRA Emergency Order No. 15, Notice No. 3]

Determination of Continued Emergency

Pursuant to section 203(c) of the Federal Railroad Safety Act of 1970, this is public notice that the Federal Railroad Administrator, under the authority delegated by the Secretary of Transportation, 49 CFR 1.49, has found that the emergency situation described in this agency's Emergency Order No. 15, issued July 26, 1991, and published in the **Federal Register** on July 31, remains in existence.

The requirements of the Order shall remain in effect pending decision on the petitions for review received by the agency before August 30. 49 CFR 211.47.

This public notice was issued in Washington, DC, on September 10, 1991.

Gilbert E. Carmichael,

Administrator.

[FR Doc. 91–22340 Filed 9–16–91; 8:45 am]

BILLING CODE 4910–06–M

Sunshine Act Meetings

Federal Register
Vol. 56, No. 180
Tuesday, September 17, 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).

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given of the following meeting of the Board:

TIME AND DATE: 9:00 a.m. September 26, 1991.

PLACE: Public Hearing Room, Suite 700, 625 Indiana Avenue, N.W., Washington, D.C. 20004.

STATUS: Open.

MATTERS TO BE CONSIDERED: Briefing by the Department of Energy on and discussions of the results of the Waste Isolation Pilot Plant (WIPP) Operational Readiness Review (ORR).

FOR MORE INFORMATION CONTACT: Kenneth M. Pusateri or Carole J. Counsel, (202) 208-6387.

Dated: September 13, 1991.

Kenneth M. Pusateri,

General Manager.

[FR Doc. 91-22500 Filed 9-13-91; 2:18 pm]

BILLING CODE 6820-KD-M

DEPARTMENT OF ENERGY

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: September 9, 1991, 56 FR 46352.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: September 11, 1991, 10 a.m.

CHANGE IN THE MEETING: The following Docket Numbers have been added to Items CAG-3 and H-1 on the Agenda scheduled for September 11, 1991:

Item No., Docket No., and Company

CAG-3—RP91-51-000, CNG Transmission Corporation
H-1—EL89-35-000, Pennsylanvia Electric Company

Lois D. Cashell,

Secretary.

[FR Doc. 91-22535 Filed 9-13-91; 3:53 pm]

BILLING CODE 6717-02-M

FARM CREDIT ADMINISTRATION

Farm Credit Administration; Amendment to Sunshine Act Meeting

SUMMARY: Pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), the Farm Credit Administration gave notice on September 9, 1991 (56 FR 46037) of the regular meeting of the Farm Credit Administration Board (Board) scheduled for September 12, 1991. This notice is to amend the agenda for that meeting to change the scheduled meeting time from 10:00 a.m. to 5:15 p.m.

FOR FURTHER INFORMATION CONTACT: Curtis M. Anderson, Secretary to the Farm Credit Administration Board, (703) 883-4003, TDD (703) 883-4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

SUPPLEMENTARY INFORMATION: Parts of the meeting of the Board were open to the public (limited space available), and parts of the meeting were closed to the public. Notice of this meeting was previously given by posting on the agency's public notice board in its offices, pursuant to 12 CFR 604.425(c), in addition to publication in the **Federal Register** on September 9. Only the time of the meeting has been changed.

Date: September 13, 1991.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 91-22531 Filed 9-13-91; 3:17 pm]

BILLING CODE 6705-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

September 12, 1991.

TIME AND DATE: 10:00 a.m., Thursday, September 19, 1991.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Closed [Pursuant to 5 U.S.C. § 552b(c)(10)].

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Drummond Company, Inc.*, Docket No. SE 90-126.
2. *Hobert Mining, Inc.*, Docket No. WEVA 91-65.
3. *Utah Power & Light Co.*, Docket No. WEST 90-320, etc.
4. *Texas Utilities Mining Co.*, Docket No. CENT 91-26.
5. *Cyprus Plateau Mining Corp.*, Docket No. WEST 91-44, etc.
6. *Drummond Company, Inc.*, Docket No. SE 90-125, etc.
7. *Zeigler Coal Company*, Docket No. LAKE 91-2.

Oral Argument has been heard in items 1, 2, and 3 on September 11, 1991. All of these cases involve similar issues pertaining to the procedures of the Department of Labor's Mine Safety and Health Administration for proposing civil penalties under its "excessive history" policy.

It was determined by a unanimous vote of Commissioners that these items be discussed in closed session.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen; (202) 653-5629/(202) 708-9300 for TDD Relay, 1-800-877-8339 (Toll Free).

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 91-22520 Filed 9-13-91; 3:47 pm]

BILLING CODE 6735-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, September 23, 1991.

PLACE: Marriner 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. Proposed computer maintenance contract for the Federal Reserve System.
2. Federal Reserve Bank and Branch director appointments. (This matter was originally announced for a closed meeting on September 3, 1991.)
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. 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: September 13, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-22510 Filed 9-13-91; 2:43 pm]

BILLING CODE 6210-01-M

NUCLEAR REGULATORY COMMISSION:

DATE: Weeks of September 16, 23, 30, and October 7, 1991.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of September 16

There are no meetings scheduled for the week of September 16.

Week of September 23—Tentative

Wednesday, September 25

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting)
Final Rule Entitled "Material Control and Accounting Requirements for Uranium Enrichment Facilities Producing Special Nuclear Material of Low Strategic Significance" and Conforming Amendments to 10 CFR Parts 2, 40, 70, and 74 (Tentative)

Week of September 30—Tentative

Tuesday, October 1

1:30 p.m.
General Discussion of High Level Waste Program (Public Meeting)
3:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2)

Wednesday, October 2

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of October 7—Tentative

Monday, October 7

10:30 a.m.
Briefing on Use of Advanced Computers in AEOD and Status of Upgrading NRC Operations Center's Emergency Telecommunications Systems (Public Meeting)
3:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 and 6)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To Verify the Status of Meeting Call (Recording)—(301) 492–0292

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492–1661.

Dated: September 12, 1991.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 91–22449 Filed 9–13–91; 11:53 am]

BILLING CODE 7590–01–M

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Notice of Vote to Close Meeting

At its meeting on September 9, 1991, the Board of Governors of the United States Postal Service voted unanimously to close to public observation its meeting scheduled for October 7, 1991, in Queens, New York. The members will consider the anticipated Opinion and Further Recommended Decision of the Postal Rate Commission in Docket No. R90–1.

The meeting is expected to be attended by the following persons: Governors Alvarado, Daniels, del Junco, Griesemer, Hall, Mackie, Nevin, Pace and Setrakian; Postmaster General Frank, Deputy Postmaster General Coughlin, Secretary to the Board Harris, and General Counsel Hughes.

The Board determined that pursuant to section 552b(c)(3) of title 5, United States Code, and section 7.3(c) of title 39, Code of Federal Regulations, the discussion of this matter is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b(b)), because it is likely to disclose information in connection with proceedings under Chapter 36 of title 39, United States Code (having to do with postal ratemaking, mail classification and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of title 39, United States Code.

The Board determined further that pursuant to section 552b(c)(10) of title 5, United States Code, and section 7.3(j) of title 39, Code of Federal Regulations, this discussion is exempt because it is likely to specifically concern participation of the Postal Service in a civil action or proceeding involving a determination on the record after an opportunity for a hearing. The Board further determined that the public interest does not require that the Board's discussion of the matter be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting may properly be closed to public observation pursuant to sections 552b(c)(3) and (10) of title 5, United States Code; section 410(c)(4) of title 39, United States Code; and section 7.3 (c) and (j) of title 39, Code of Federal Regulations.

Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268–4800.

David F. Harris,

Secretary.

[FR Doc. 91–22421 Filed 9–13–91; 11:53 am]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of September 16, 1991.

A closed meeting will be held on Tuesday, September 17, 1991, at 2:30 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Roberts, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, September 17, 1991, at 2:30 p.m., will be:

Institution of injunctive actions.
Institution of administrative proceedings of an enforcement nature.
Formal order of investigation.
Settlement of administrative proceedings of an enforcement nature.
Settlement of injunctive actions.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Laura Josephs at (202) 272–2200.

Dated: September 13, 1991.

Jonathan G. Katz,

Secretary.

[FR Doc. 91–22536 Filed 9–13–91; 3:57 pm]

BILLING CODE 8010–01–M

federal register

Tuesday
September 17, 1991

Part II

Department of Education

Vocational Rehabilitation Services to Individuals With Severe Handicaps; Special Projects and Demonstrations; Notice

DEPARTMENT OF EDUCATION

Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals With Severe Handicaps

AGENCY: Department of Education.

ACTION: Notice of proposed priorities for Fiscal Year 1992.

SUMMARY: The Secretary proposes priorities for fiscal year 1992 under the program of Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals with Severe Handicaps. The Secretary takes this action to focus Federal financial assistance on areas of identified national need. These priorities are intended to expand or improve vocational rehabilitation services to the following underserved disability groups—(1) individuals with specific learning disabilities living in rural or remote areas; (2) individuals with chronic, progressive diseases, including HIV/AIDS, cancer, and multiple sclerosis; and (3) individuals with traumatic brain injuries.

DATES: Comments must be received on or before November 1, 1991.

ADDRESSES: All comments concerning these proposed priorities should be addressed to Michael Morgan, U.S. Department of Education, 400 Maryland Avenue, SW., room 3038 Switzer Building, Washington, DC 20202–2575.

FOR FURTHER INFORMATION CONTACT: D. Ray Fuller, Jr., U.S. Department of Education, 400 Maryland Avenue, SW., room 3314 Switzer Building, Washington, DC 20202–2649. Telephone: (202) 732–1494. Deaf and hearing impaired individuals may call (202) 732–1349 for TDD services.

SUPPLEMENTARY INFORMATION:

Grants under the program of Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals with Severe Handicaps are authorized by title III, section 311(a)(1) of the Rehabilitation Act of 1973, as amended. The purpose of this section is to authorize grants for special projects and demonstrations that hold promise of expanding or otherwise improving rehabilitation services to individuals with severe handicaps.

The Secretary will announce the final priorities in a notice in the **Federal Register**. The final priorities will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of particular projects depends on the availability of funds, the nature of the final priorities, and the quality of the applications received. The publication of these proposed priorities does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only these priorities, subject to meeting applicable rulemaking requirements.

Note: This notice of proposed priorities does not solicit applications. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following publication of the notice of final priorities.

Proposed Priorities

Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet one of the following priorities. The Secretary proposes to fund under this competition only applications that meet one of these absolute priorities:

Proposed Priority 1—Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals with Specific Learning Disabilities Residing in Rural or Remote Areas

Background

Estimates based on the 1980 Census suggest that between 25 percent and 35 percent of Americans live in rural areas and that nearly 13 percent of these individuals have a disabling condition ("Rural Rehabilitation: Its Time is Now," Paper from the First National Conference of the Research and Training Center on Rural Rehabilitation Services, Page, 1989). According to the Research and Training Center on Rural Rehabilitation Services, service delivery to rural areas poses a number of challenges, including vast distances between consumers and service providers, a lower prevalence of any particular disability that precludes specialization in any one disability, and fewer qualified service providers. Thus, rural rehabilitation professionals may be required to travel extensively and to be more diversified than rehabilitation professionals in urban areas. Another challenge reported by rural rehabilitation personnel is the inability to communicate with each other and the lack of access to current information resources regarding the field of rehabilitation (Rehab Brief, Vol. II, No. 11, 1990).

State vocational rehabilitation agencies and counselors, adult education agencies, and others in rural and remote areas report that an ever-growing number of adults with specific learning disabilities (SLD) are unemployed and do not have access to appropriate assessment and rehabilitative services. Studies suggest that in rural States, 45 to 60 percent of adults with learning disabilities are unemployed and in need of rehabilitation services (Project PERT: Postsecondary Education/Rehabilitation Transition for the Mildly Retarded and the Learning Disabled, Woodrow Wilson Rehabilitation Center, 1985). Similar findings were generated by the 1989 Berkeley Planning Associates study on "Evaluation of Services Provided for Individuals with Specific Learning Disabilities." The study found that lack of assessment resources was a major barrier to serving rural learning disabled clients; that psychologists were too far away to be available for assessment; that specialization of counselors was not feasible in rural or remote areas; and that not only were resources for SLD lacking in rural areas, but that available service providers were not knowledgeable about SLD and the accommodations needed for that disability. The study also noted that remote areas of a western State included in the study tend to be populated by Native Americans. The American Indian Research and Training Center reports that Native Americans have higher incidence of SLD than the general population. Information from western regions of the Rehabilitation Services Administration (RSA) indicates that this finding holds true for a number of western States.

Research projects funded by the National Institute on Disability and Rehabilitation Research cite models for developing linkage systems among service providers, consumers, and resource specialists who are great distances from one another. These projects, described in Rehab Brief, Vol. II, No. II, 1990, include development of a national rural independent living network; application of technological advances to benefit physically disabled agricultural workers; use of telecommunications technology to disseminate job accommodation information to consumers and service providers in remote, isolated areas; and development of personal computer software that allows rural rehabilitation counselors to access current information, transfer files, and automate recordkeeping. A review of bibliography of rural rehabilitation project literature produced by the Research and Training Center on Rural Rehabilitation Services reveals that projects are being conducted for a variety of disability groups, but none are related to individuals with SLD. For example, a study conducted in a rural western State of high school seniors in self-contained or resource room special education

programs who graduated in 1988 indicates that of those students with SLD who might have benefitted from employment-related activities and experiences, only 21 percent received those services, compared to 75 percent of students with mental retardation who received employment-related services. ("The Demographic Study of Supported Employment in Montana," Project Director, Richard Offner, Nov., 1988, Montana Supported Employment Demonstration Project, in conjunction with the Montana University Affiliated Programs and Research and Training Center on Rural Rehabilitation Services.)

Proposed Priority

Projects funded under this priority must be model demonstration projects designed to enhance the delivery of rehabilitation services to adults with SLD who reside in rural areas, including remote areas accessible only by special means of transportation or during specific seasons. Projects responding to this priority must develop a resource network that links rural vocational rehabilitation personnel to existing service providers, including professionals from the special education field if appropriate, who have the capacity to diagnose, assess, and rehabilitate adults with SLD. The development of a resource network must incorporate appropriate local community resources.

In accordance with the selection criteria in 34 CFR 369.31(d) and 34 CFR 373.30(d), an applicant shall provide an evaluation plan for the project showing methods of evaluation that, to the extent possible, are objective and produce data that are quantifiable. Under 34 CFR 373.30(i)(2), the applicant shall provide information that shows the potential for project findings to be effectively utilized within the State vocational rehabilitation service system and the likelihood of the project activities being successfully replicated in other locations. The project must widely disseminate the practices and materials it develops to facilitate the capacity of other agencies and facilities to provide improved services to individuals with SLD living in rural or remote areas.

Proposed Priority 2—Special Projects and Demonstrations to Enhance Rehabilitation Service Delivery to Individuals With Chronic, Progressive Diseases

Background

Chronic, progressive diseases present a challenge to both the medical community and the field of rehabilitation. The first phase after the diagnosis of a chronic disease is medical intervention. In the next phase, attention should be directed toward disabilities that result from the illness to develop a link between medical diagnosis and the assessment of potential functional limitations. During this second phase, rehabilitation interventions should be planned, implemented, and evaluated. The third phase involves long-term management of the illness to ensure the best level of functioning for the individual despite conditions that are likely to remain chronic or progressive (Rehab Brief, Vol. XIII, No. 1, 1990). This is the phase in which rehabilitation efforts fail since most service delivery models are time-limited and do not provide for interventions after case closure.

For example, there are three distinct phases with regard to human immunodeficiency virus (HIV) infection (New England Journal of Medicine, Vol. 321, No. 24, 1989). In the first phase, the onset of infection, an individual may not yet exhibit any functional limitations for which vocational rehabilitation services would be appropriate. However, by the second (chronic) phase of the infection, the individual may exhibit significant functional limitations due to malaise, fatigue, and lymphadenopathy; in addition, the symptoms and duration of normally minor infectious diseases or infections may be exacerbated by the underlying HIV infection. At this point, vocational rehabilitation service may be of benefit in terms of employability. This chronic phase can last for months or years. In the third phase of this disease, the HIV infection has progressed to acquired immunodeficiency syndrome (AIDS). This phase can also last from months to years depending at least in part on the efficacy and availability of treatment. At this phase, visual and mental disabilities may occur and present significant new functional limitations that impact on the person's ability to perform his or her current job. Therefore, if the individual's case was closed as rehabilitated during the chronic phase of HIV infection, additional vocational rehabilitation interventions may be needed if the disease progresses to AIDS and new functional limitations occur.

The 1986 Amendments to the Rehabilitation Act of 1973 broadened the definition of post-employment services to include follow-up, follow-along, and specific services necessary to assist individuals to maintain or regain employment. In addition, requirements for the Individualized Written Rehabilitation Program (IWRP) were strengthened to require that the IWRP developed for each eligible individual provide for an assessment of the expected need for post-employment services prior to the closing of the case. Innovative service delivery models need to be developed that build upon these requirements and provide appropriate post-employment interventions for individuals with chronic, progressive diseases.

Proposed Priority

Projects funded under this priority must be model demonstration projects designed to enhance the delivery of rehabilitation services to individuals with chronic, progressive diseases, including HIV/AIDS, cancer, and multiple sclerosis, who are frequently not provided appropriate services in the rehabilitation system because of the changing and progressive nature of their disabilities. This priority proposes to improve the delivery of vocational and other rehabilitation services to these individuals through the development of demonstration models that focus on post-employment intervention.

Projects responding to this priority must include service delivery models to provide appropriate follow-up, follow-along, and post-employment services to assist individuals with chronic, progressive diseases to maintain or regain employment. Projects must address the changing rehabilitation needs of individuals with chronic, progressive diseases and develop strategies to adapt and modify rehabilitation plans that respond to the progressive nature of the disability.

In accordance with the selection criteria in 34 CFR 369.31(d) and 34 CFR 373.30(d), an applicant shall provide an evaluation plan for the project showing methods of evaluation that, to the extent possible, are objective and produce data that are quantifiable. Under 34 CFR 373.30(i)(2), the applicant shall provide information that shows the potential for project findings to be effectively utilized within the State vocational rehabilitation service system and the likelihood of the project activities being successfully replicated in other locations. The project must widely disseminate the practices and materials it develops to facilitate the capacity of other agencies and facilities to provide improved services to individuals with chronic, progressive diseases.

Proposed Priority 3—Special Projects and Demonstrations to Develop Innovative Strategies Focusing on Transferability of Job Skills to Serve Individuals With Traumatic Brain Injuries

Background

Over the past 20 years, the survival rate of individuals with traumatic brain injuries (TBI) has increased four-fold. Therefore, more of these individuals seek vocational rehabilitation services to assist in regaining employment. While neurological rehabilitation efforts have predominated in working with individuals with TBI, increasing attention is being given to vocational rehabilitation interventions for these individuals (Fraser, R.T., McMahon, B.T., & Vogenthaler, D. (1988). Specific considerations for vocational rehabilitation with the head injured. In S. Rubin & N. Rubin (Eds.), Contemporary challenges to the rehabilitation profession (pp. 217–242). Baltimore: Paul H. Brookes Publishing Co.)

A recent survey conducted by the Arkansas Research and Training Center in Vocational Rehabilitation (May, 1990) of over 1,000 adults with TBI found that less than 20 percent of these individuals received job training or job placement services. The most prevalent concerns of these individuals regarding their vocational rehabilitation are (1) lack of appropriate career counseling, (2) lack of appropriate vocational preparation, and (3) lack of appropriate job placement services.

Another study of 48 individuals who survived head injuries found that although 92 percent of these individuals worked in skilled or semi-skilled occupations prior to injury, many of these individuals were placed in unskilled occupations and even sheltered employment after injury. The findings support that rehabilitation professionals providing job training and placement services for individuals with TBI need to identify post-injury residual job skills and abilities and transfer those skills and abilities to other occupational opportunities. (Fraser, R.T., Dimken, S., McLean, A., & Temkin, N. (1988). Employability of head injured survivors: The first year post-injury. Rehabilitation Counseling Bulletin, 31, 278–288.)

Many studies have been done on the generalization and transferability of job skills specific to individuals with TBI (Parente, R. & Anderson-Parente, J.K., Vocational memory training, 1990. In Community Integration Following Traumatic Brain Injury, Kreutzer J.S. & Wehman, P. (Eds.) (pp. 157–168). Baltimore: Paul H. Brookes Publishing Co.) Generalization refers to trainable skills that a person can use in a new or different context. Transferable skills are those skills that are directly applicable to certain tasks but not necessarily to others. These studies have validated the success of many techniques in vocational memory training for individuals with TBI that promote the transfer of generalizable memory strategies and specific transferable skills, including stimulation therapy, cognitive skills therapy, memory strategies, academic therapy, and simulation training. New and emerging strategies and interventions, such as prosthetic memory devices, cognitive orthotic devices, and other technologies, are also being explored with some success.

Proposed Priority

Projects funded under this priority must be model demonstration projects designed to identify post-injury residual job skills of individuals with TBI and to utilize those transferable job skills in developing appropriate training and placement services. Service delivery models must be developed to identify pre-injury job skills, assess residual job skills after injury, develop appropriate job training methods (e.g., vocational memory training), place individuals with TBI in employment that builds upon residual job skills, and evaluate the success rate of these placements.

In addition, the application of validated and emerging strategies and interventions to promote the generalization and transferability of job skills in training and placement must be an integral part of the project.

In accordance with the selection criteria in 34 CFR 369.31(d) and 34 CFR 373.30(d), an applicant shall provide an evaluation plan for the project showing methods of evaluation that, to the extent possible, are objective and produce data that are quantifiable. Under 34 CFR 373.30(i)(2), the applicant shall provide information that shows the potential for project findings to be effectively utilized within the State vocational rehabilitation service system and the likelihood of the project activities being successfully replicated in other locations. The project must widely disseminate the practices and materials it develops to facilitate the capacity of other agencies and facilities to provide improved services to individuals with TBI.

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 these proposed priorities.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in room 3038, Mary Switzer Building, 330 C Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

Applicable Program Regulations

34 CFR parts 369 and 373.

Program Authority: 29 U.S.C. 777a.

(Catalog of Federal Domestic Assistance Number 84.235, Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals with Severe Handicaps)

Dated: June 24, 1991.

Lamar Alexander,

Secretary of Education.

[FR Doc. 91–22250 Filed 9–16–91; 8:45 am]

BILLING CODE 4000-01-M

federal register

Tuesday
September 17, 1991

Part III

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Notice of Approved Tribal-State Compact

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved 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 a Tribal-State Compact between the Lower Brule Sioux Tribe and the State of South Dakota executed on July 9, 1991.

DATES: September 17, 1991.

ADDRESSES: Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior, MS–4603 MIB, 1849 "C" Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Joyce Grisham, Bureau of Indian Affairs, Washington, DC, (202) 208–7445.

Dated: September 4, 1991.

David J. Matheson,

Assistant Secretary—Indian Affairs.

[FR Doc. 91–22313 Filed 9–16–91; 8:45 am]

BILLING CODE 4310–02–M

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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102d Congress, 1st Session, 1991

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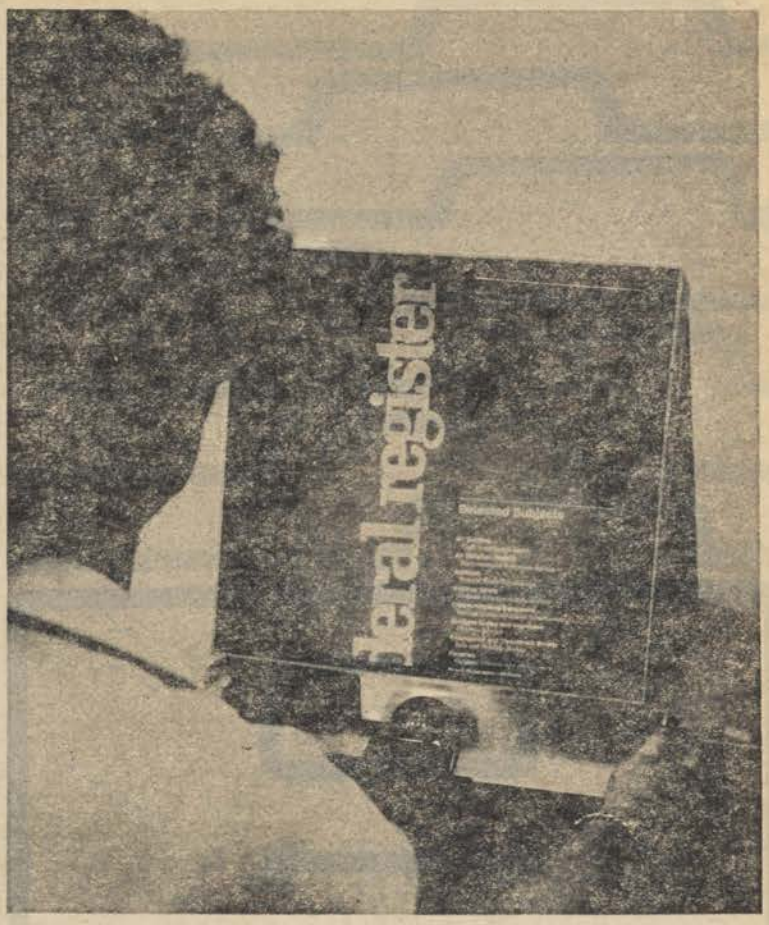

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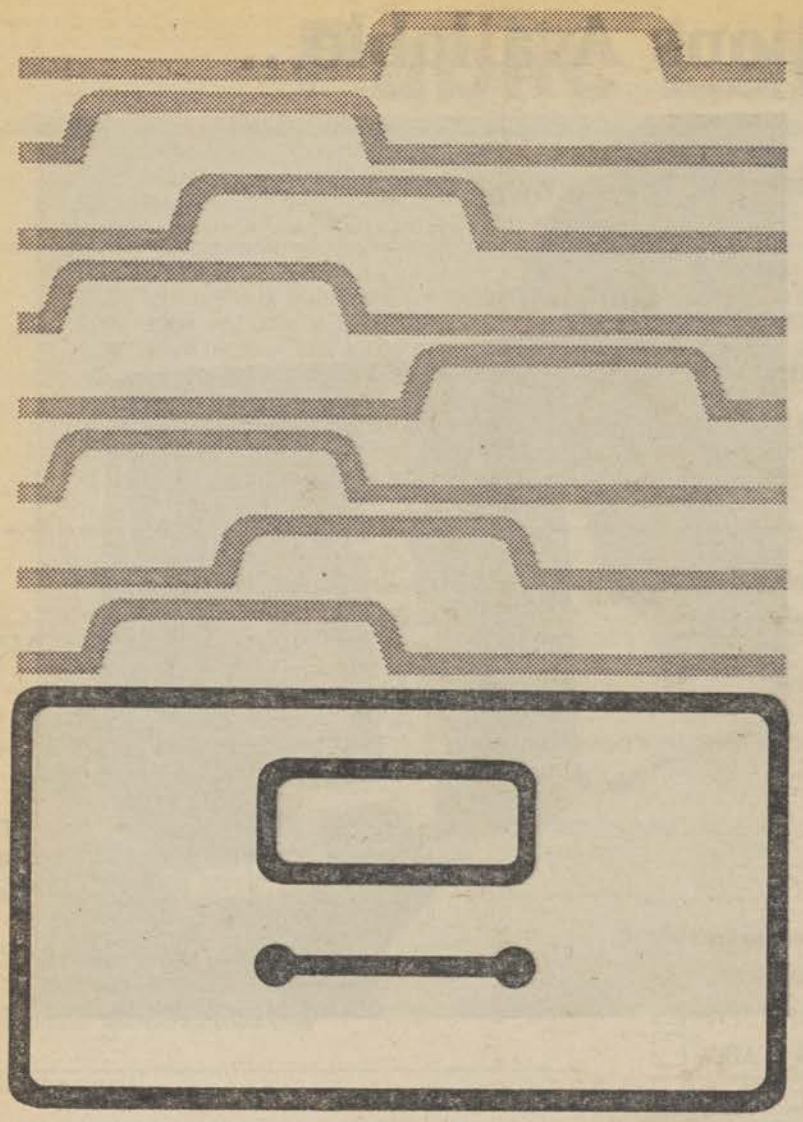

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