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Thursday
November 21, 1991

Briefing on How To Use the Federal Register
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER

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.

WASHINGTON, DC

WHEN: November 25, at 9:00 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: 202–523–5240.
DIRECTIONS: North on 11th Street from Metro Center to southwest corner of 11th and L Streets

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Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 90-232]

Brucellosis

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning brucellosis, to (1) allow movement of cattle from approved intermediate handling facilities to quarantined feedlots; (2) require that approved intermediate handling facilities be separate and apart from livestock facilities for breeding cattle and breeding bison, rather than from all other livestock facilities; (3) lower the allowable minimum number of live organisms in official calfhood vaccines to 2.7 billion per 2 ml. dose; (4) expand the conditions under which the standard card test may be used as an official test; (5) allow reinstatement of "certified free herd" status after a reactor is found, if sufficient evidence shows that the reactor's herd is not infected with field strain *Brucella abortus;* and (6) provide for the interstate movement of rodeo bulls on the basis of a single annual test. These amendments will remove unnecessary restrictions without significantly increasing the risk of spreading brucellosis.

EFFECTIVE DATE: December 23, 1991.

FOR FURTHER INFORMATION CONTACT: Dr. John Kopec, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, VS, APHIS, USDA, room 729, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-6188.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 78 (referred to below as the regulations) govern the interstate movement of cattle, bison, and swine in order to help prevent the interstate spread of brucellosis. On September 24, 1990, we published in the **Federal Register** (55 FR 39004-39010, Docket Number 88-022), a document proposing to (1) allow movement of cattle from approved intermediate handling facilities to quarantined feedlots; (2) require that approved intermediate handling facilities be separate and apart from livestock facilities for breeding cattle and breeding bison, rather than from all other livestock facilities; (3) lower the allowable minimum number of live organisms in official calfhood vaccines to 2.7 billion per 2 ml. dose; (4) expand the conditions under which the standard card test may be used as an official test; (5) allow reinstatement of "certified free herd" status after a reactor is found, if sufficient evidence shows that the reactor's herd is not infected with field strain *Brucella abortus;* (6) remove the adjusted Market Cattle Identification (MCI) reactor rate as a standard for Class Free States; and (7) provide for the interstate movement of rodeo bulls on the basis of a single annual test.

We solicited comments on the proposed rule for a 60-day period ending November 24, 1990. We received 8 comments by the closing date. The comments were from a representative of a pharmaceutical firm, five officials from a State Department of Agriculture, and two Animal and Plant Health Inspection Service employees.

Seven of the comments received dealt with the subject of the use of the concentration immunoassay technology (CITE®) test as a diagnostic supplement to the standard card test. In our proposal, we proposed to expand the definition of official test to include the standard card test, if it is used in specifically approved stockyards, when the State animal health official designates the standard plate test, the Rivanol test, and/or the CITE® test as supplemental diagnostic test for officially vaccinated cattle and bison. The commenters requested that the language used to describe the CITE® test as a supplemental diagnostic test for officially vaccinated cattle and bison be changed to describe the CITE® test as a diagnostic supplement to the standard card test for all cattle and bison regardless of vaccination status. We consider the commenters' recommendation a valid one. On August 13, 1990, we published final regulations in the **Federal Register** (55 FR 32897, Docket Number 90-115) designating the CITE® test as a diagnostic supplement to the standard card test for all cattle and bison, not just official vaccinates. Therefore, in this final rule, we are defining the term "official test" to include the standard card test performed in specifically approved stockyards when the State animal health official designates the standard card test as the official test for non-vaccinated cattle and bison, and designates the CITE® test as a supplemental diagnostic test for cattle and bison that test positive to the standard card test, or designates the standard plate test or the Rivanol test as supplemental diagnostic tests for officially vaccinated cattle or bison that test positive to the standard card test. We are also making a nonsubstantive wording change to the provisions regarding classification of cattle and bison in the definition of "Official test" ("Standard card test"—§ 78.1(a)(1)(C)(i)(*2*)) to reflect that the CITE® test may be used as a supplemental test on non-vaccinated cattle and bison.

In our proposal, we proposed to (1) remove the requirement that a State or area maintain an MCI reactor prevalence rate of no more than one brucellosis reactor per 2,000 cattle tested (0.050 percent) to retain Class Free status; (2) make changes to the way in which the MCI reactor prevalence rate is adjusted in Class Free States or areas; and (3) add requirements in the MCI reactor prevalence rate for retention of Class Free State or area status. We received one comment that supported the removal of the MCI reactor prevalence rate requirement for retention of Class Free status, but that also recommended that the requirement be removed as a factor in attaining Class Free status. Since the time the proposed rule was published, our continuing review of the brucellosis eradication program in this country has indicated that an alternative to the use of the MCI reactor prevalence rate might be more effective than the current and proposed provisions. We are in the process of analyzing this alternative. In light of this analysis, we consider it

inappropriate and possibly unnecessarily disruptive to amend at this time the current provisions regarding the MCI reactor prevalence rate in Class Free States or areas. Therefore, in this final rule, we are not including the provisions included in our proposal regarding the MCI reactor prevalence rate requirements applicable to Class Free States and areas.

In our proposal, we proposed to allow certain specified cattle which originate in Class A States or areas to be moved interstate from a farm of origin to a quarantined feedlot under certain specified conditions. One of the conditions which we proposed was that the identity of the farm of origin of the cattle be maintained by penning the cattle from one farm of origin or State or area apart from other animals. The provision which would have allowed cattle from one State or area to be penned together was inadvertently proposed and would not accomplish the purpose of such penning (maintaining the identity of the farm of origin). Therefore, we have eliminated this provision in the final rule.

In our proposal, we proposed that a rodeo bull that is test-eligible from a herd not known to be affected may be moved interstate under certain specified conditions. Two of the conditions which we proposed were that the bull is tested negative to an official test conducted less than 365 days before the date of movement and that there is no change of ownership of the bull. We did not intend that there would never be a change of ownership of the bull. We did not intend that there could never be a change of ownership. We only intended to limit a reflects our intent.

In our proposal, we proposed that a bull that would otherwise qualify as a rodeo bull, but that is used for breeding purposes during the 365 days following the date of being tested, may move interstate only if it otherwise meets the testing requirements for test-eligible cattle in 9 CFR part 78, subpart B. We did not intend to exempt such bulls from all the other requirements of 9 CFR part 78, subpart B. Therefore, in this final rule we have changed this provision to make it clear that a bull that would qualify as a rodeo bull, but that is used for breeding purposes during the 365 days following the date of being tested, may be moved interstate only if the bull meets the requirement in 9 CFR part 78, subpart B.

Based on the reasons set forth in the proposal and in this document, we are adopting the provisions of the proposed rule, with the changes discussed in this document, and nonsubstantive changes for clarity.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The changes we are making to the regulations that will have some economic impact are discussed in this and the following paragraphs. The change to allow movement of cattle from approved intermediate handling facilities to quarantined feedlots will make it easier to assemble full truckloads before moving cattle to quarantined feedlots. This will result in lower transportation costs for some cattle owners, because it will reduce the number of trips to quarantined feedlots, for which carriers usually charge on a per mile basis. It will also result in some decrease in income for carriers. However, we believe these economic effects will be insignificant in comparison to the total number of cattle moved by carrier each year. The great majority of cattle that are moved to slaughter do not go through a quarantined feedlot. Further, even though assembling such cattle at intermediate handling facilities will eliminate some trips, those cattle so assembled will still have to be moved by some form of carrier to the quarantined feedlot.

The change to reduce the allowable minimum of live organisms in official calfhood vaccines to 2.7 billion per 2 ml. dose will extend the shelf life of the vaccine. An estimated 375,000 additional doses of the vaccine will be able to be administered because of this extended shelf life. The increase in the number of doses, which will be spread among purchasers of the vaccine nationwide, represents less than 4 percent of the approximately 10 million doses administered annually, and will provide a savings to purchasers of only $.20 per additional dose.

The change to allow supplemental tests to be used with the standard card test at specifically approved stockyards will decrease the amount of time that cattle accompanying an animal testing positive will be detained at the stockyard. Currently, such animals are detained for an average of 2 to 6 days. This delay will be unnecessary because the supplemental test results will be obtained in a day. Although statistics are not kept on the number of animals at stockyards considered to be suspect, we believe, based on experience, that the number of cattle affected by the change in the regulations will be insignificant in relation to the total number of cattle moved through specifically approved stockyards each year.

Another of the changes made in this docket will allow reinstatement of "certified free herd" status after a reactor is found, if sufficient evidence shows that the reactor's herd is not infected with field strain *Brucella abortus*. In fiscal year 1990, there were approximately 15,000 certified free herds in the United States, of which 0.5 percent would have been affected by this change. Based on an average herd size of 75 animals, and average test costs of between one dollar and three dollars per animal, the savings would have ranged between $75 to $225 per herd affected by the change. We do not expect this savings estimate to change significantly in the coming year.

One of the changes made by this docket will provide for the interstate movement of rodeo bulls on the basis of a single annual test. We estimate that approximately 3,750 bulls will be affected by this change, with an average of five fewer tests conducted per bull each year. Based on an estimated cost per test of $6.00, the annual savings per bull will be approximately $30.

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

Executive Order 12372

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

Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C., chapter 35), the information collection provisions that are included in this final rule will be submitted for the approval of the Office of Management and Budget.

List of Subjects in 9 CFR Part 78

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

Accordingly, 9 CFR part 78 is amended as follows:

PART 78—BRUCELLOSIS

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

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

§ 78.1 [Amended]

2. In § 78.1, definition of *Approved intermediate handling facility*, introductory text, first sentence, the words "and quarantined feedlots" are added immediately after "establishments".

3. In § 78.1, definition of *Approved intermediate handling facility*, fifth sentence, the words "or a quarantined feedlot" are added immediately after "establishment".

4. In § 78.1, definition of *Approved intermediate handling facility*, sixth sentence, paragraph (a), the words "for breeding cattle and breeding bison" are added immediately after "facilities".

5. In § 78.1, definition of *Approved intermediate handling facility*, sixth sentence, paragraph (f), the words "or a quarantined feedlot" are added immediately after "slaughter".

6. In § 78.1 definition of *Certified Brucellosis-free herd*, paragraph (b) is amended by revising the last sentence to read as follows:

§ 78.1 Definitions.

* * * * *

Certified Brucellosis-Free Herd

* * * * *

(b) * * * A herd which loses certified brucellosis-free herd status because a brucellosis reactor is found in the herd may be recertified only by repeating the certification process, except that certified brucellosis-free herd status may be reinstated without repeating the certification process if epidemiological studies and bacteriological cultures conducted by an APHIS representative or State representative show that the herd was not affected with field strain *Brucella abortus*.

* * * * *

§ 78.1 [Amended]

7. In § 78.1, definition of *Market cattle identification test cattle*, first sentence, the words "quarantined feedlots," are added immediately after the word "stockyards,".

8. In § 78.1, definition of *Market cattle identification test cattle*, second sentence, the words "quarantined feedlot," are added immediately after the word "stockyard,".

9. In § 78.1 definition of *Official calfhood vaccinate*, paragraph (a)(1), the words "3 billion" are removed, and the words "2.7 billion" are added in their place.

10. In § 78.1 definition of *Official test*, paragraphs (a)(1) introductory text and (a)(1)(i)(C) are revised to read as follows:

§ 78.1 Definitions.

* * * * *

Official test. (a) * * *

(1) *Standard card test.* (i) * * *

(C) In specifically approved stockyards when the State animal health official either:

(*1*) Designates the standard card test as the official test for determining the brucellosis disease status of cattle and bison in all specifically approved stockyards in the State. In these States, no other official test except the Buffered Acidified Plate Antigen test shall be used in specifically approved stockyards; or

(*2*) Designates the standard card test as the official test for determining the brucellosis disease status of non-vaccinated cattle or bison (the CITE® test may be designated as a supplemental test for non-vaccinated cattle or bison that test positive to the standard card test); and designates the standard card test as the official test for determining the brucellosis disease status of official vaccinates and the CITE® test, the standard plate test, or the Rivanol test as supplemental tests for official vaccinates that test positive to the standard card test. If supplemental tests are conducted, cattle or bison that are positive to the standard card test shall be classified as brucellosis suspects if all of the supplemental tests conducted disclose a negative or suspect reaction, and shall be classified as brucellosis reactors if any one of the supplemental tests conducted has a positive reaction; or

* * * * *

§ 78.1 [Amended]

11. In § 78.1, the definition of *Permit*, third sentence, the words "the approved intermediate handling facility" are removed, and the words "the approved intermediate handling facility, a quarantined feedlot," are added in their place.

12. In § 78.1, the definition of *Permit*, fourth sentence, the words "If such a permit lists a recognized slaughtering establishment" are removed, and the words "If the permit lists a quarantined feedlot or a recognized slaughtering establishment" are added in their place.

13. In § 78.1, the definition of *Permit*, fourth sentence, the words "to the quarantined feedlot or" are added immediately after "cattle or bison".

14. In § 78.1, the definition of *Quarantined feedlot*, paragraphs (a)(2) and (a)(5), the words "then directly to a recognized slaughtering establishment" are removed, and the words "then directly to another quarantined feedlot or a recognized slaughtering establishment" are added in their place.

15. In § 78.1, definition of *Quarantined pasture*, the ninth sentence is revised to read as follows:

§ 78.1 Definitions.

* * * * *

Quarantined pasture. * * * All cattle and bison, except steers and spayed heifers, leaving the quarantined pasture must move directly to a recognized slaughtering establishment or quarantined feedlot, or directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment, or directly to an approved intermediate handling facility and then directly to a quarantined feedlot and then directly to a recognized slaughtering establishment. * * *

* * * * *

16. In § 78.1, a definition of *Rodeo bulls* is added, in alphabetical order, to read as follows:

§ 78.1 Definitions.

* * * * *

Rodeo bulls. Male cattle kept solely for performance at rodeos.

* * * * *

§ 78.1 [Amended]

17. In § 78.1, definition of *'S' brand permit*, fifth sentence, the words "either the approved intermediate handling facility or a recognized slaughtering establishment" are removed, and the words "either the approved intermediate handling facility, a quarantined feedlot, or a recognized slaughtering establishment" are added in their place.

18. In § 78.1, definition of *'S' brand permit*, sixth sentence, the words "If such an "S" brand permit lists a recognized slaughtering establishment" are removed, and the words "If the "S" brand permit lists a quarantined feedlot or a recognized slaughtering establishment" are added in their place.

19. In § 78.1, definition of *'S' brand permit*, sixth sentence, the words "from the approved intermediate handling facility to the quarantined feedlot or"

are added immediately after "cattle and bison".

20. In § 78.1, the definition of *'S' brand permit* is amended by adding a seventh sentence in the parenthetical to read:

§ 78.1 Defnitions.

* * * * *

"S" brand permit. * * * Subsequent movements from the quarantined feedlot shall be subject to requirements set forth in the definition of "quarantined feedlot" in this section.

* * * * *

21. In § 78.1, paragraph (b), the introductory text is revised to read as follows:

§ 78.8 Brucellosis exposed cattle.

* * * * *

(b) *Movement to quarantined feedlots.* Brucellosis exposed cattle for which no claim for indemnity is being made by the owner under part 51 of this chapter may be moved interstate directly to a quarantined feedlot, or from a farm of origin directly to a specifically approved stockyard approved to receive brucellosis exposed cattle and then directly to a quarantined feedlot, or from a farm of origin directly to an approved intermediate handling facility and then directly to a quarantined feedlot, or from a farm of origin directly to a specifically approved stockyard approved to receive brucellosis exposed cattle and then directly to an approved intermediate handling facility and then directly to a quarantined feedlot, if the cattle are:

* * * * *

22. in § 78.9, paragraphs (a)(2), (b)(2)(i), (c)(2)(i)(B), and (d)(2)(i)(B) are revised, and paragraphs (c)(2)(i)(C) and (d)(2)(i)(C) are added, to read as follows:

§ 78.9 Cattle from herds not known to be affected.

(a) * * *

(2) *Movement to quarantined feedlots.* Such cattle may be moved interstate without restriction under this subpart directly to a quarantined feedlot, or directly to a specifically approved stockyard and then directly to a quarantined feedlot, or directly to a specifically approved stockyard and then directly to an approved intermediate handling facility and then directly to a quarantined feedlot, or directly to an approved intermediate handling facility and then directly to a quarantined feedlot.

* * * * *

(b) * * *

(2) *Movement to quarantined feedlots.* (i) Such cattle may be moved interstate from a farm of origin directly to a quarantined feedlot, or directly to a specifically approved stockyard and then directly to a quarantined feedlot, or directly to a specifically approved stockyard and then directly to an approved intermediate handling facility and then directly to a quarantined feedlot, or directly to an approved intermediate handling facility and then directly to a quarantined feedlot, if the identity of the farm of origin of the cattle is maintained by means of identification tag numbers appearing on sale records showing the consignor or by penning cattle from the farm of origin apart from other animals.

* * * * *

(c) * * *

(2) * * *

(i) * * *

(B) A specifically approved stockyard and the directly to a quarantined feedlot or directly to an approved intermediate handling facility and then directly to a quarantined feedlot, if the cattle are "S" branded upon arrival at the specifically approved stockyard and are accompanied to the quarantined feedlot by an "S" brand permit; or

(C) An approved intermediate handling facility and then directly to a quarantined feedlot, if the cattle are "S" branded upon arrival at the approved intermediate handling facility and are accompanied to the quarantined feedlot by an "S" brand permit.

* * * * *

(d) * * *

(2) * * *

(i) * * *

(B) A specifically approved stockyard and then directly to a quarantined feedlot, or directly to an approved intermediate handling facility and then directly to a quarantined feedlot, if the cattle are "S" branded upon arrival at the specifically approved stockyard and are accompanied to the quarantined feedlot by an "S" brand permit; or

(C) An approved intermediate handling facility and then directly to a quarantined feedlot, if the cattle are "S" branded upon arrival at the approved intermediate handling facility and are accompanied to the quarantined feedlot by an "S" brand permit.

* * * * *

23. In § 78.10, in the first sentence in paragraph (a) and the first sentence in paragraph (b) are revised to read as follows:

§ 78.10 Official vaccination of cattle moving into and out of Class B and Class C States or areas.

(a) Female dairy cattle born after January 1, 1984, which are 4 months of age or over must be official vaccinates to move interstate into or out of a Class B State or area [4] unless they are moved interstate directly to a recognized slaughtering establishment or quarantined feedlot, or directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment, or directly to an approved intermediate handling facility and then directly to a quarantined feedlot and then directly to a recognized slaughtering establishment, or directly to an approved intermediate handling facility and then directly to a quarantined feedlot and then directly to a recognized slaughtering establishment.

* * *

(b) Female cattle born after January 1, 1984, which are 4 months of age or over must be official vaccinates to move into a Class C State or area [4] unless they are moved interstate directly to a recognized slaughtering establishiment, or directly to an approved intermediate handling facility and then directly to a recognized slaughtering establishment, or directly to an approved intermediate handling facility and then directly to a quarantined feedlot and then directly to a recognized slaughtering establishment.

* * *

* * * * *

§ 78.11 [Amended]

24. In § 78.11, paragraph (b), the words "or directly to an approved intermediate handling facility and then directly to a quarantined feedlot and then directly to a recognized slaughtering establishment" are added immediately after the word "establishment".

§ 78.12 [Amended]

25. In § 78.12, paragraph (d)(1)(ii), the words "or directly to an approved intermediate handling facility and then directly to a quarantined feedlot and then directly to a recognized slaughtering establishment" are added immediately after the word "establishment".

§ 78.12 [Amended]

26. In § 78.12, paragraph (d)(1)(iii), the words "or directly to an approved intermediate handling facility and then directly to a quarantined feedlot and then directly to a recognized slaughtering establishment" are added immediately after the word "establishment".

27. In § 78.12, paragraph (d)(2)(i) is revised to read as follows:

---

[4] Female cattle imported into the United States may be exempted from the vaccination requirements of this paragraph with the concurrence of the State animal health official of the State of destination. This concurrence is required prior to the importation of the cattle into the United States.

§ 78.12 Cattle from quarantined areas.

* * * * *

(d) * * *

(2) * * *

(i) Cattle from qualified herds in a quarantined area may be moved interstate from a farm of origin directly to a quarantined feedlot, or directly to a specifically approved stockyard and then directly to a quarantined feedlot, or directly to an approved intermediate handling facility and then directly to a quarantined feedlot if the cattle are negative to an official test within 30 days prior to such interstate movement and are accompanied by a certificate which states, in addition to the items specified in § 78.1 of this part, the test dates and results of the official tests; or

* * * * *

28. A new § 78.14 is added to read as follows:

§ 78.14 Rodeo bulls.

(a) A rodeo bull that is test-eligible and that is from a herd not known to be affected may be moved interstate if:

(1) The bull is classified as brucellosis negative based upon an official test conducted less than 365 days before the date of interstate movement;

(2) The bull is identified with an official eartag;

(3) There is no change of ownership since the date of the last official test;

(4) A certificate accompanies each interstate movement of the bull; and

(5) A permit for entry is issue for each interstate movement of the bull.

(b) A bull that would qualify as a rodeo bull, but that is used for breeding purposes during the 365 days following the date of being tested, may be moved interstate only if the bull meets the requirements for cattle in this subpart.

(Approved by the Office of Management and Budget under control number 0579–0047).

§§ 78.1, 78.2, 78.7, 78.8, 78.9. 78.11, 78.12, 78.22, 78.23, 78.24, 78.31, and 78.32 [Amended]

29. In addition to the amendments set forth above, §§ 78.1, 78.2, 78.7, 78.8, 78.9, 78.11, 78.12, 78.22, 78.23, 78.24, 78.31, and 78.32 are amended by revising the OMB control number citation at the end of each of these sections to read as follows: "(Approved by the Office of Management and Budget under control number 0579–0047)".

Done in Washington, DC, this 14th day of November 1991.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91–27924 Filed 11–20–91; 8:45 am]

BILLING CODE 3410–34–M

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 936

[No. 91–562]

Community Support Requirements for Members of the Federal Home Loan Bank System

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board ("Finance Board") is adopting final regulations to implement section 710(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"). This section of FIRREA requires the Finance Board to adopt regulations establishing standards of community investment or service for members of the Federal Home Loan Bank ("FHLBank") System to maintain continued access to long-term advances. The Final Rule reflects public comment on the full range of policy and procedural issues involved in the establishment and implementation of community support standards.

EFFECTIVE DATE: December 23, 1991.

FOR FURTHER INFORMATION CONTACT: Sylvia C. Martinez, Director, Housing Finance Directorate, or Stephen D. Johnson, Attorney-Advisor, (202) 408–2847, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

A. General

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law No. 101–73, 103 Stat. 183 ("FIRREA"), established the Finance Board as an independent agency in the executive branch of the federal government. It is the successor agency to the Federal Home Loan Bank Board with respect to the oversight of the FHLBanks. In supervising the activities of the FHLBanks, the Finance Board must ensure that they carry out their housing finance mission, remain adequately capitalized and able to raise funds in the capital markets, and operate in a safe and sound manner.

All savings institutions insured by the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation ("FDIC") are members of the FHLBank System, as are many savings banks insured by the FDIC's Bank Insurance Fund. With the passage of FIRREA, membership in the FHLBank System ("System") was opened as well to commercial banks and credit unions that make long-term home mortgage loans, subject to certain qualifications related to financial soundness and home financing policies.

B. Community Support Requirements In FIRREA

Section 710(c) of FIRREA added a new section 10(g) to the Federal Home Loan Bank Act of 1932, 12 U.S.C.A. 1430(g), as follows:

(g) Community Support Requirements.—(1) In General.—Before the end of the 2-year period beginning on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Board shall adopt regulations establishing standards of community investment or service for members of Banks to maintain continued access to long-term advances.

(2) Factors To Be Included.—The regulations promulgated pursuant to paragraph (1) shall take into account factors such as a member's performance under the Community Reinvestment Act of 1977 and the member's record of lending to first-time homebuyers.

Although the legislative history on section 710(c) is limited, the changes made in related sections in FIRREA shed some light on congressional intent as to section 710(c). Specifically, FIRREA created the Affordable Housing Program and the Community Investment Program, which expand FHLBank community-oriented lending activities and reflect a commitment to housing finance for those at lower income levels, including community development lending. This commitment is also evident in FIRREA's amendments to the Home Mortgage Disclosure Act of 1975, 12 U.S.C. 2803 ("HMDA"), and the Community Reinvestment Act of 1977, 12 U.S.C. 2901 ("CRA"). These amendments broadened HMDA reporting requirements to include the income, sex, and race of applicants and also made CRA examination data available to the public for the first time, facilitating public monitoring of financial institutions' community reinvestment activities.

These changes reflect an intent to make the FHLBank System a more effective means for institutions to engage in community lending and to strengthen the regulatory tools that ensure that community needs are being addressed. Therefore, in promulgating these regulations, the Finance Board has interpreted section 710(c) as another means for the System to support the public policy goals underlying community lending.

C. Public Participation in This Rulemaking

The Finance Board has regarded the development and implementation of these Community Support regulations as one of its most important responsibilities, and throughout the rulemaking process has sought the broadest possible input through public comments.

1. Advance Notice

The Finance Board initiated the rulemaking process by publishing an Advance Notice of Proposed Rulemaking (56 FR 387) ("Advance Notice") on January 4, 1991, soliciting public comment, both generally and as to specific questions and issues. The Finance Board received 66 comment letters in response to the Advance Notice. Comments were submitted by 27 financial institutions (mostly members of the FHLBank System), 10 FHLBanks, 9 community interest organizations and groups, 9 state and local agencies, 8 financial trade associations, and 3 private individuals and companies.

Most of the comment letters recommended that the Finance Board use existing regulatory programs, such as CRA and HMDA, enforced by other federal agencies, in establishing requirements for community support. In addition, the commenters urged the Finance Board to maximize the existing capacity of the FHLBanks to provide affordable housing finance and community development lending. The comment letters differed on the importance of CRA ratings for purposes of this regulation, with some recommending complete reliance on the CRA rating to the exclusion of any other criteria, while others recommended that the CRA rating be one of several elements to be considered.

2. Proposed Rule

Following a careful analysis of the Advanced Notice comments, the Finance Board published a Notice of Proposed Rulemaking (56 FR 26346) ("Proposed Rule") on June 7, 1991, incorporating many of the concepts and suggestions from the Advance Notice. The Finance Board received 99 comment letters in response to the Proposed Rule. Comments were submitted by 28 thrift and banking institutions, all 12 FHLBanks (23 letters), 9 FHLBank Advisory Councils, 11 individual members of FHLBank Advisory Councils, 9 community interest organizations and groups, 4 federal, state and local agencies, 10 financial trade associations (13 letters), 1 United States Congressman, and 1 private citizen.

Comment letters regarding the Proposed Rule raised seven principal issues:

—The role of the FHLBanks;
—Use and review of CRA ratings;
—Effects on System membership and profitability;
—Public participation in the review process;
—FHLBank administrative burdens;
—Incentive programs; and
—The role of FHLBank Advisory Councils.

Any role of the FHLBanks in reviewing and rating members' Community Support was overwhelmingly opposed by the commenters; 54 of the 56 comment letters addressing this issue were opposed to the FHLBanks' role as outlined in the Proposed Rule. These comment letters came from a range of sources, including FHLBanks, Advisory Councils, FHLBank members, community groups, Congress, and financial trade associations. The reasons for opposition varied, but in essence, the comment letters all objected to any Finance Board delegation of responsibilities to the FHLBanks on the grounds that this would create a perception that the FHLBanks were returning to a pre-FIRREA role as industry regulators, a function FIRREA had eliminated.

The use and review of CRA ratings in the Proposed Rule was addressed in several ways by the comment letters. Forty-five (45) comment letters supported the general use of CRA as a basis for Community Support evaluations, while nine letters opposed any use of CRA. The provision in the Proposed Rule allowing the FHLBanks to evaluate the accuracy of CRA ratings assigned by the federal financial regulators was objected to in 42 comment letters and supported in only 14, with seven letters suggesting that CRA ratings be revised if the benefit would be to the member.

The 35 comment letters that addressed the issue of membership stated that the implementation of a Community Support regulation would reduce the attractiveness of FHLBank membership. Several of the letters predicted that the effect would not be severe because it would be offset by the attractiveness of FHLBank resources and technical assistance.

In addressing the issue of public participation in the Community Support review process, 17 of 25 comment letters opposed any public disclosure of the process. The eight comment letters taking the opposite view urged even more public disclosures and participation in the review process.

FHLBank administrative issues, community lending incentives, and the role of the FHLBanks' Advisory Councils were also addressed in the comment letters. Seven comment letters were critical of increasing FHLBank Community Support expenditures at a time of FHLBank budget reductions, and 19 letters raised paperwork burden and duplication concerns. Incentives for Community Support activities were opposed in 14 letters, and supported in 11 comment letters. Fourteen (14) comment letters, many from Advisory Councils and their members, stated that the Proposed Rule would have required intrusive and improper activities.

The Finance Board gave careful consideration to all the points raised in the comment letters and incorporated many of the suggested changes and additions in the Final Rule.

D. Background

These regulations are being promulgated at a time when the entire mortgage finance industry is undergoing unprecedented change. The FHLBank System is likewise undergoing its own transition. The Resolution Trust Corporation thrift resolution process, the impact of new capital rules, expanded mortgage securitization, charter mergers, and the state of the housing market are placing enormous strain on all housing lenders, especially portfolio lenders. The FHLBank System has not escaped these forces. While some decrease in the System was expected after the passage of FIRREA, the scope and pace of the shrinkage has exceeded all projections.

Still, the System retains its fundamental health, as reflected in the recent series of reports to Congress on Government Sponsored Enterprises ("GSEs"). Each of the reports, by the Department of the Treasury, Congressional Budget Office, and General Accounting Office, found that the FHLBank System retains its historical profile of high credit quality, low interest rate risk, and abundant capital. Standard and Poor's gave the System a AAA credit rating, even without the implicit government guarantee inherent in its agency status. This is several levels higher than the rating provided to fellow housing GSEs, Federal National Mortgage Association and Federal Home Loan Mortgage Corporation. Nevertheless, the System's level of outstanding advances has fallen 50 percent since FIRREA, undermining the role of the System in housing finance and decreasing its profitability. Among

other things, this loss of earnings has reduced the effectiveness of the System's tremendously successful Affordable Housing Program.

One of the benefits of FIRREA was its change of the FHLBank System's membership rules to include commercial banks and credit unions with a significant commitment to housing. This was in recognition of the fact that commercial banks have greatly expanded their role in mortgage finance. From a public policy standpoint, this expansion in membership is important for several reasons. System advances increase the profitability of mortgage origination at a time when mortgage funding sources and prices are unreliable and unstable. Also, System advances facilitate portfolio lending, which is critical to the origination of community loans that do not conform to the underwriting guidelines of the secondary market. Furthermore, low cost System advances help community lenders, banks and thrifts alike, to compete against large regional banks that have their own access to the capital markets and that are expanding into communities through the emergence of interstate branching. Housing finance benefits from a strong System, but more importantly, community lending benefits.

Another benefit of FIRREA was the elimination of the FHLBanks' regulatory responsibilities. Traditionally, the FHLBank Presidents served as Principal Supervisory Agents, on behalf of the government, in regulating their members. The removal of these responsibilities has restored a customer relationship between the FHLBanks and their members.

Community lending laws and responsibilities are also undergoing significant change. FIRREA made important changes in CRA, the full effects of which are just now being felt. Public notice of previously undisclosed CRA ratings and expanded HMDA reporting requirements are bringing the power of "sunshine" into what has been a little understood and often criticized process.

The inclusion of commercial banks and credit unions expands the effectiveness and efficiency of FHLBank System programs such as the Affordable Housing Program. It increases the health and profitability of the System as well. Since System membership for these newly eligible financial institutions is voluntary, these institutions must be motivated to join the System by products and services which meet their needs. Many such incentives exist, including special community lending products and services, technical assistance, subsidized advances, and other tools for satisfying CRA. However, if the potential applicant believes that System membership brings with it another costly and intrusive layer of regulation, this may offset the perceived benefits of System membership.

Therefore, in promulgating the Community Support regulations, the Finance Board has attempted to strike a balance that both serves the important policy goals of FIRREA and enhances the System's role as a partner for community lending, but at the same time does not impair its attractiveness to new members. The Finance Board believes that this balance is reflected in the following elements of the final rule:

(1) Reliance on existing CRA documentation to minimize new paperwork burdens for members, avoid a costly new level of examination, and provide members with assurance that in most cases a satisfactory CRA evaluation will result in unrestricted access to System advances;

(2) Use of post-FIRREA CRA examinations to achieve consistency in the evaluation process;

(3) Review of community lending information not normally recognized in a CRA evaluation, such as participation in lending consortia, targeted community lending outside a member's delineated CRA community, and first-time home lending, to ensure that all Community Support activities are given credit and to build flexibility into the review of members for the purpose of maintaining access to System advances; and

(4) Retention of decision making at the Finance Board to ensure consistent enforcement and to avoid any perception of the FHLBanks as regulators.

Finally, consistent with the spirit of FIRREA in providing public disclosure of CRA ratings, these regulations will provide for a public comment process as part of the review of all members' Community Support activities. All comments received will be provided to the member as well as to the member's primary federal regulator. This will provide a member with notice of the community's perception of its activities in advance of its next CRA examination by its primary federal regulator.

E. Analysis of Final Rule

The following is a provision-by-provision discussion of key terminology, Community Support review procedures, and substantive differences between the Proposed Rule and the Final Rule.

1. Section 936.1—Definitions

a. *CRA Evaluation*—The Finance Board's use of the term "CRA Evaluation" in the Final Rule refers to the public section of the evaluation performed by a member's primary federal regulator pursuant to CRA. Only evaluations based on compliance examinations commenced on or after July 1, 1990, will be considered "CRA Evaluations." These CRA Evaluations use four (4) rating categories: "Outstanding," "Satisfactory," "Needs to improve," and "Substantial non-compliance" as outlined in the Uniform Interagency Community Reinvestment Act Final Guidelines For Disclosure of Written Evaluations and Revised Assessment Rating System, published in the **Federal Register** on May 1, 1990 (55 FR 18163).

FIRREA amended CRA in three significant ways. First, it required the federal financial regulatory agencies to use a four-tier descriptive rating system instead of the previous numerical rating system in assessing the CRA compliance of financial institutions. Second, it required the agencies to make public a written evaluation of institutions' CRA performance, including a section for public disclosure that explains the agency's conclusions, discusses the supporting facts, and contains the institution's rating. Finally, FIRREA required that financial institutions disclose their CRA rating to the public for all examinations begun after July 1, 1990, by placing the public section of their CRA performance evaluation in their public comment file.

As part of these changes, the Community Support provision of FIRREA requires the Finance Board to take into account the CRA performance of members. However, prior to July 1, 1990, CRA performance information was not disclosed to the public and was specifically exempt from disclosure under the Freedom of Information Act. Therefore, the use of pre-July 1, 1990, CRA information would have forced the Finance Board to use confidential examenation information that it would not have been able to disclose. Also, the Finance Board would have been reviewing evaluations conducted under different criteria.

Therefore, to ensure fair and uniform treatment, the Finance Board has decided to only use post July 1, 1990 evaluations. Members without a CRA Evaluation based on exams conducted after July 2, 1990, will not be selected for Community Support review purposes until such evaluations are available. The final rule provides that the Finance

Board will promulgate new Community Support standards if all or substantially all members have not been examined for CRA compliance under the new guidelines within two years of the effective date of this regulation.

The Finance Board is sympathetic to the concerns expressed by community organizations, as well as lending institutions, of the inconsistency in CRA Evaluations. However, the Finance Board does not have the means or authority to conduct direct examinations of lending institutions. Therefore, it must rely, to the greatest extent possible, on the primary federal regulators to develop objective and verifiable measures to assess a lender's performance in meeting community credit needs.

b. *Community Support*—The term "Community Support" replaces the term "community-oriented lending" used in the proposed rule.

The Finance Board has defined Community Support to encompass and encourage a wide variety of efforts that benefit communities. The term includes the community lending concepts in FIRREA: The design and offering of loan products, actual lending, financial services and programs, and marketing and outreach efforts of all types, both for residential housing and community development. Participation in consortia is included to give credit to a member's Community Support activities within and beyond the institution's CRA delineated community.

As to actual extensions of credit, while the target households are those with moderate-income levels (no greater than 115 percent of median income), members are also expected to make demonstrable efforts to extend credit to benefit households at low-income (80 percent of the area median income) and very low-income (50 percent of the area median income) levels. The Finance Board realizes that not every member will be able to finance very low- and low-income housing, particularly where such housing is contingent upon the availability of additional subsidies.

Therefore, the Finance Board will be interested in reviewing evidence of both actual credit extensions and of efforts to extend credit to very low- and low-income households. The Finance Board will also consider applications to the Affordable Housing Program, Community Investment Program, participation in FHLBank Community Support programs, or any other similar governmental or private sector programs that facilitate lending to low- or moderate-income households in determining whether the member has made "demonstrable efforts" in this regard.

c. *Displaced homemaker*—This definition comes from the National Affordable Housing Act of 1990, Public Law 101–625, 104 Stat. 4079, and was added to complete the definition of first-time homebuyer. Several comment letters noted the absence of the definition in the proposed rule.

d. *First-time homebuyer*—The definition used in the final rule is the same used in the National Affordable Housing Act of 1990.

e. *Long-term advance*—Generally, "long-term" FHLBank advances are considered to be those with a term to maturity of greater than five years or more. However, for purposes of this regulation, and as a matter of policy, the Finance Board is applying a definition that deems long-term advances to include a maturity of greater than one year.

Long-term advances are designed to finance residential mortgage loans, which have a maturity between 15 and 30 years. However, the average life of such mortgage loans, when prepayments and refinancings are considered, has ranged between six and eight years. Moreover, housing industry and financial market conditions have reduced the level of FHLBank advances with a term greater than five years to less than 10 percent of total System advances.

Therefore, applying the traditional definition of long-term advances in the context of community support standards would result in a regulation with such a narrow scope as to frustrate the congressional objective behind these requirements. Accordingly, the Finance Board has determined that the definition of long-term advances, for purposes of this final rule, shall be deemed to include all advances with a term to maturity of greater than one year. Advances of a shorter duration will not be cumulated.

f. *Low- or moderate-income household and very low-income household*—These definitions reflect the definitions used in FIRREA and in the regulation establishing the Affordable Housing Program pursuant to FIRREA.

g. *Minority*—The definition is from FIRREA.

h. *Primary federal regulator*—This definition is derived from the codification of the Community Reinvestment Act at 12 U.S.C. 2902(1).

i. *Rural*—The definition is derived from the Farmers Home Administration definition at 7 CFR 1944.10, as amended by the National Affordable Housing Act of 1990.

2. Section 936.2—Purpose

This section of the final rule restates the FIRREA requirement to promulgate regulations on Community Support as the basis for continued access to long-term advances.

3. Section 936.3—Community Support Statements

This section describes the basic documentation that the Finance Board will use to review the Community Support activities of FHLBank members.

Each member, upon being selected for review, will submit a Community Support Statement, which will include: (1) A copy of the member's CRA Evaluation, or in the case of credit unions, an explanation of Community Support activities; (2) evidence of assistance to first-time homebuyers; (3) documentation of any final judgments regarding violations of fair housing or equal credit opportunity laws; and (4) any additional evidence of Community Support that the member wishes to submit. Failure to submit a Community Support Statement in response to a request shall subject a member to restrictions on long-term advances.

Following is a more detailed discussion of each of the components of the Community Support Statement.

a. *CRA Evaluation requirement*—Members that have received a CRA Evaluation of "Outstanding" or "Satisfactory" need only submit a copy of the CRA Evaluation to satisfy this component of the Community Support Statement requirements. Recent examination information provided by the federal financial regulatory agencies indicates that the vast majority of System members will fall in this category. Members that have received a CRA Evaluation of "Needs to improve" or "Substantial non-compliance" also must submit a statement of how the member has corrected or proposes to correct the deficiencies noted in its CRA Evaluation. Such a statement should address each noted deficiency with specificity.

The small group of members that are not covered by CRA, such as credit unions, will be required to submit a written statement explaining how they identify the credit needs of their members and how their loan products and financial services meet Community Support standards. The Board recognizes the unique circumstances of insurance companies and will work with these members on a case-by-case basis to fulfill the basic purpose of this Part as to these members. In promulgating this final rule, the Finance Board does not

intend, directly or indirectly, to broaden the coverage of CRA beyond the parameters set by Congress. This final rule relates to the FHLBank System's Community Support requirement only. While CRA ratings are one measure of those activities, Community Support reviews are not CRA proceedings.

b. *Assistance to first-time homebuyers*—The Finance Board will review the types of loan products, financial services, and other programs and activities intended to assist first-time homebuyers.

The Finance Board recognizes that for some period following the issuance of this regulation, members may not have data to specifically report their assistance to first-time homebuyers. Therefore, a general description of program, product development, and other outreach activities to this class of mortgagors will satisfy this requirement. Members may demonstrate assistance to first-time homebuyers in ways that are not included in the list of examples, but the Finance Board is particularly interested in actual loans, products, and services to first-time homebuyers, especially those in low- and moderate-income households. Members should report activities such as counseling, performed independently or in cooperation with local governments, non-profit housing developers, and community-based organizations.

Since there is currently no requirement under HMDA or CRA to collect data specifically on first-time homebuyers, an expansion of data collection related to first-time homebuyers would indicate a serious commitment by the member to identify and service this segment of its market. Therefore, members are encouraged, but not required, to report any expanded data collection on first-time homebuyers.

c. *Violations of Fair Housing and Equal Credit Opportunity*—The Finance Board has included in the requirements for the Community Support Statement a requirement for information on any final judgment of Fair Housing Act or Equal Credit Opportunity Act violations because such information would bear directly on Community Support and might be more recent than the CRA Evaluation.

d. *Additional evidence of Community Support*—The Finance Board intends members to have broad latitude to submit additional evidence of Community Support not acknowledged in the CRA Evaluation. The Final Rule contains examples of such additional evidence, but the listing is not intended to be all inclusive.

4. Section 936.4—Review of Community Support Statements

a. *Role of the FHLBanks*—In the proposed rule, the FHLBanks would have evaluated a member on its Community Support activities and developed procedures for determination of eligibility for continued access to long-term advances. The preponderance of the comments on the proposed rule objected to the FHLBanks' role in evaluating their members. The FHLBanks, several Advisory Councils, and members objected to having the FHLBanks perceived as regulators, which the proposed rule's delegation of an evaluative role to the FHLBanks could have created. Commenters expressed concern that this role would hurt membership recruitment efforts to the extent it implied that the member would be subjected to another layer of regulation by joining the System. Public-interest commenters objected to the FHLBanks performing member evaluations on the grounds that the FHLBanks were not disinterested parties in reviewing their own members. In the proposed rule, the Finance Board would have retained a role as the reviewer, but the initial review of members' Community Support would have been performed by the FHLBanks. In proposing this arrangement, the Finance Board expected that the FHLBanks could more accurately identify the credit needs of their various districts and, in a constructive fashion, assist members directly in meeting those needs.

However, the Finance Board recognizes the difficulties and possible perceived conflicts that could arise if the FHLBanks were placed in a substantive evaluative role. Therefore, in the final rule, the FHLBanks have no evaluative responsibilities over member institutions. The FHLBanks are assigned a number of administrative responsibilities and will be required to provide technical assistance to members both by working with the member directly in developing a Community Support Statement, Community Support Action Plan, and through Bank programs, as specified in § 936.8. The administrative responsibilities that are assigned to the FHLBanks will consist of reviewing the Community Support Statements for completeness, notifying a member if the statement is incomplete, and forwarding to the Finance Board completed Community Support Statements, comment letters or other information received during the public comment period, as well as a list of members with incomplete or missing statements.

b. *Role of the Finance Board*—The Finance Board's role is to review the Community Support Statements for approval or disapproval within 60 days, pursuant to the standards in § 936.4. Also, the Finance Board will forward all public comments to the member's primary federal regulator.

The Finance Board will be responsible for giving written notice to the FHLBank and the member as to whether or not the member's Community Support Statement is approved. If a member's Community Support Statement is not approved, the Finance Board will furnish specific reasons for the disapproval, with enough information to assist the member in developing an Action Plan.

In reviewing a member's Community Support Statement, the Finance Board will place primary emphasis on a member's CRA Evaluation, focusing particularly on those assessment factors within the CRA Evaluation that are most directly related to Community Support. For example, the Finance Board will not focus on the technical implementation of the CRA within a given lending institution, but will focus on CRA Assessment Factors and Performance categories most relevant to the definition of Community Support.

The primary purpose of the FHLBank System is to provide funds for home finance, and the Finance Board will be focusing on member residential lending. FIRREA, however, provided expanded authority for Community Support lending for commercial and economic development of low- and moderate-income communities. Consequently, the Finance Board will also view positively CRA Evaluations and Community Support Statements that highlight commercial and economic development activities that benefit low- and moderate-income families or low- and moderate-income neighborhoods. Commercial lending institutions may submit evidence of extension of credit to these communities, either as identified in an institution's CRA Evaluation or as part of the Community Support Statement.

As a general rule, those members whose Community Support Statements include a CRA Evaluation of "Outstanding" or "Satisfactory" will receive approval of their Statements. The Finance Board anticipates that the CRA examination, in assessing the responsiveness of a lending institution to the credit needs in its community, will serve to address the key elements required in a Community Support Statement.

In a very limited number of instances, a CRA Evaluation that meets the

standards under CRA (and is thus rated "Outstanding" or "Satisfactory") may not completely satisfy Community Support standards. Under CRA examination guidelines, a member's CRA Evaluation may be based on a broad array of non-housing related credit products; a lending institution could conceivably receive a satisfactory rating based solely on loan products unrelated to housing or community development. Therefore, the Finance Board retains the authority to require an Action Plan for a member with a CRA Evaluation of "Outstanding" or "Satisfactory" if the Evaluation does not reflect a reasonable effort at Community Support activities and the member's Community Support Statement is not supplemented with other evidence that demonstrates such efforts. Consequently, in preparing a Community Support Statement, members should include information relevant to Community Support if such information is not included in the CRA Evaluation.

Members with a CRA Evaluation of "Needs to improve" or "Substantial noncompliance," will usually be asked to submit an Action Plan to improve their level of Community Support. The Finance Board recognizes that a member's CRA Evaluation of "Needs to improve" or "Substantial noncompliance" may not reflect the full extent of the member's Community Support efforts. For example, an institution's unsatisfactory rating may not reflect a creative and effective inner-city lending program or participation in a consortium because either the activity began after the CRA Evaluation was concluded or because it was targeted to households outside the member's delineated CRA community. Therefore, the Finance Board may not require an Action Plan for every member with a "Needs to improve" or "Substantial noncompliance" CRA Evaluation if the member demonstrates that it is meeting Community Support Standards. In preparing their Community Support Statements, members should provide the Finance Board with pertinent information on their Community Support activities not addressed or recognized in the CRA Evaluation.

In the case of a member who is required to submit an Action Plan, the Finance Board may convert a Community Support Statement into an Action Plan if the member's Statement meets the objectives of an Action Plan, including measurable goals.

c. *Frequency of review*—The Finance Board intends to review the Community Support performance of each FHLBank System member approximately every two years. This schedule should allow the Finance Board and the member sufficient time to conduct an appropriate review of Community Support activities without creating an overly intrusive or duplicative procedure. The two-year schedule also corresponds with the CRA examination schedule announced by the Office of Thrift Supervision—the financial regulatory agency for the majority of FHLBank System members.

d. *Finance Board selection of members for review*—Beginning in 1992, the Finance Board will select approximately one-eighth of the FHLBank members in each district for review in each calendar quarter. Members will be selected from those which have received a post-July 1, 1990, CRA Evaluation and those that are not covered by CRA. The selection of members subject to the CRA will be, to the greatest extent practicable, based on the chronological sequence of the member's CRA Evaluation

The Finance Board will provide each FHLBank a list of its members that have been selected for review and simultaneously publish a notice in the **Federal Register**. This notice will include: (1) The name and address, by FHLBank district, of members to be reviewed; (2) the deadline for the members' submission of their Community Support Statements to their FHLBanks; and (3) a closing date for the 30-day comment period during which the public can submit comments on the Community Support activities of the members being reviewed.

e. *FHLBank notice to members*—Within 15 days from the date that each FHLBank receives the notice from the Finance Board listing the FHLBank's members to be reviewed, the FHLBank shall give written notice to each member.

Each notice from the FHLBank to the members being reviewed for Community Support performance must contain the following information:

—Notice that the member is being reviewed;
—An explanation of the Community Support Statement requirements;
—A description of the review process, including the dates when information must be submitted, the scope of the review process, and penalties for non-compliance;
—A description of FHLBank programs and technical assistance available to aid the member;
—A contact person and address where the member should send its Community Support Statement; and
—Notice that the member's Community Support Statement and any documentation submitted by the member will be available to the public upon request.

The Finance Board will develop a uniform notice as a model for the FHLBanks.

f. *Public comment process.*—The Finance Board has incorporated public participation in the Community Support review process, anticipating that written public comments will help to identify both met and unmet credit needs and a member's Community Support effectiveness. In order to initiate the public comment process, the Finance Board will publish in the **Federal Register** a notice announcing the Community Support review schedule as discussed in paragraph (d) above. Within 15 days of this publication, the FHLBanks will issue a notice to members of its Advisory Council, public interest and community organizations in its district, and any other organizations or citizens that have requested to be so advised, announcing the commencement of a 30-day public comment period. This notice shall include:

—The name and address of each member being reviewed;
—The deadline for submission of public comments;
—A description of the process used in the Community Support evaluation; and
—An address and contact person for submission of public comments.

Public comments will be accepted by the FHLBank for a period of 30 days for subsequent transmittal to the Finance Board. The FHLBanks will collect and convey the public comments to the Finance Board, but will perform no evaluation or analysis thereof. The comment letters will be taken into consideration in the Finance Board's review of the member's Community Support Statement.

5. Section 936.5—Community Support Action Plans

In order to provide the member with the maximum opportunity to become a participant in Community Support activities, the Finance Board has created a mechanism in the regulation—the Community Support Action Plan—by which a member can propose activities and goals it will work to meet and which will postpone any sanction in the form of restricted access to long-term advances. Only a member whose Community Support Statement is not approved will be required to submit an Action Plan. The Finance Board will

review the Action Plan, and if approved, the member will then have a year in which to implement its Plan. Only if the Finance Board finds that the member has failed to implement the Plan will long-term advances be restricted. The Finance Board has created this process in order to carry out the intent in FIRREA and encourage participation in Community Support, not simply to restrict access to long-term advances.

Within 45 days of the Finance Board's notice to a member that an Action Plan is required, the member must submit to its FHLBank, for subsequent transmittal to the Finance Board, an Action Plan which includes the following information: (1) How the member has addressed or will address any Community Support Statement deficiencies identified by the Finance Board; (2) how Community Support activities and goals will be achieved through the Action Plan; and (3) measurable goals which can be identified by the member and the Finance Board in reviewing the member's progress. In developing an Action Plan, the member should include measurable goals, with as much specificity as possible, and should include such information as:

—A community credit needs assessment, with a description of how the member intends to meet those credit needs through available products, lending, and service;
—Specific outreach or marketing plans that identify the minority and very low-, low-, and moderate-income communities to be targeted and describe the marketing plans in detail;
—A description of credit products that the member has initiated or plans to implement;
—A description of the member's existing or planned participation in FHLBank programs or other governmental programs which address the needs of minority and very low-, low-, and moderate-income communities; and
—A description of a member's participation in technical assistance programs or other activities intended to improve its community lending performance.

In developing an Action Plan, a member is not expected to underwrite loans that are not in keeping with safe and sound lending practices. The Finance Board anticipates that the members' community lending will meet the credit needs of their communities and at the same time will offer a return to the members without exposure to undue risk. To this end, members will be encouraged to avail themselves of the services provided by the FHLBanks or similar technical assistance programs.

6. Section 936.6—Review of Community Support Action Plans

As with the review of Community Support Statements, the review of Action Plans will be performed by the Finance Board. The FHLBanks will collect the required information from the member and will be available to the member for assistance. Within 15 days of receiving a Community Support Action Plan from a member, the member's FHLBank shall review the Action Plan for completeness and forward the Action Plan to the Finance Board. In reviewing for completeness, the FHLBank will ensure that the member is meeting the reporting requirements in § 936.5. The Finance Board will have 30 days after receipt of an Action Plan to notify the member if the Action Plan has been approved.

In reviewing an Action Plan, the Finance Board will not require any specific investment or service activity, but rather, will conduct an overall assessment of how the member's goals address the various Community Support needs of its community. The Finance Board will determine whether the Action Plan reflects a reasonable commitment to satisfy the Community Support standards of this part. The Finance Board does not require a member to set unrealistic or disproportionate community lending goals. The Finance Board will seek efforts and activities intended to determine and measure community credit needs and to satisfy them with products, services, programs, and underwriting guidelines.

Once an Action Plan is approved, the Finance Board will review within one year the member's implementation of the Action Plan to determine whether or not the goals outlined by the member have been met. In the month preceding the one-year anniversary of the member's Action Plan, the Board will request a report from the member detailing results of efforts under the Action Plan and achievement of goals. The member may consult with its Bank or directly with the Board in preparing the report. If at any time within that one-year period the Finance Board is satisfied that the member is meeting the goals in the Action Plan, the Action Plan may be suspended. A member may amend its Action Plan at any time during implementation or seek extensions, if appropriate, subject to the Finance Board's approval. If the member does not substantially meet its goals, the Finance Board may extend the Action Plan or seek modifications thereto.

7. Section 936.7—Restrictions on Access to Long-term Advances

The Finance Board has structured the regulation so that only after clear opportunity to address any deficiencies in Community Support activity will a member's access to long-term advances be restricted. In the great majority of cases, the Finance Board expects that the availability of the Action Plan process will be sufficient to address any member deficiencies in commitment to Community Support.

If the member fails to develop an Action Plan that adequately addresses its Community Support deficiencies or if the member fails to adequately implement its Action Plan, the Finance Board may restrict the member's access to long-term advances. The Finance Board's intent is not to penalize members, but to facilitate members' ability to work within their communities, meeting credit needs and forming private/public partnerships in community lending. To further these ends, even members whose access to long-term advances are restricted will not be restricted from advances under the Affordable Housing Program or the Community Investment Program.

If a member refuses to submit a Community Support Statement in response to a Finance Board request or does not correct lending practices that resulted in an adjudication of fair housing or fair lending violations, the Finance Board may restrict a member's access to long-term advances without requiring an Action Plan.

Once the Finance Board decides to restrict a member's access to long-term advances and that decision is communicated to the member, the Finance Board will not consider a member's request for reinstatement for six months. A member may petition the Finance Board for a reinstatement of long-term borrowing privileges after the first six months from the date the restriction is imposed. Such petition should specify progress that has been made by the member in meeting Community Support needs and targeted in its Action Plan. In considering a petition for reinstatement, the Finance Board will evaluate a member's progress on an Action Plan.

If a restriction on a member's access to long-term advances would undermine that member's safety and soundness, the member may petition the Finance Board for a waiver. The petition should include a clear and concise explanation of the basis for the member's request.

8. Section 936.8—Bank Community Support Programs

The Finance Board takes seriously FIRREA's intent to ensure that the FHLBank System satisfies its mission of providing housing finance and meeting the credit needs of all communities, including low- or moderate-income communities. Toward that end, the Finance Board is requiring the establishment of Community Support Programs in each of the 12 FHLBank districts to assist members' participation in community lending, especially in those activities that address a community's most critical housing and community development needs.

The implementation of this regulation includes the establishment and expansion of existing Community Support Programs at each FHLBank to provide technical assistance, information and resource sharing, and analysis of community credit needs. The FHLBank Affordable Housing and Community Investment Programs mandated by FIRREA have already assisted many members to participate in community lending, and the FHLBanks are already providing other similar services to their members and communities. The Finance Board intends to leave discretion to the FHLBank to develop whatever programs are necessary to meet the particular Community Support needs of their district. By working closely with the Advisory Councils, the FLHBanks will be able to continue to assist members in identifying community credit needs and community investment opportunities and to fulfill their Community Support obligations.

At a minimum, the FHLBanks must make available technical assistance to members in developing Community Support Statements and Community Support Action Plans. The FHLBanks are also to identify community investment needs and opportunities and promote the use of advances for Community Support lending and affordable housing finance. At its election, a FHLBank may contract with intermediaries experienced in providing technical assistance training in community investment or development.

Each FHLBank shall provide notice to all members and interested parties of the FHLBanks' programs, such as the Affordable Housing Program or Community Investment Program, to assist the member in meeting community credit needs. At least twice a year, each FHLBank will provide its members with a summary of Community Support lending and affordable housing projects being undertaken by members or non-members, which are specific enough to provide the member with community lending models.

Each FHLBank shall maintain a current mailing list of community groups and interested parties to be notified of the quarterly review process under § 936.4. This list should include public interest organizations, public agencies, community organizations, and citizens who have requested to be given notice of the Community Support review process. The mailing list should be representative of the various community interests. The Finance Board anticipates that the mailing list will be supplemented from attendance lists at community investment conferences or other outreach programs sponsored by the FHLBanks.

The FHLBank should make clear in its outreach programs that an organization or individual which so requests will be placed on the mailing list.

Finally, as part of its Community Support Program, each FHLBank is required to adopt incentives for community support participation. Under the proposed rule, these incentives would have required discounts and/or preferred terms on regular advances for members with superior performance in community investment. Some commenters were concerned that this requirement could adversely affect a FHLBank's safety and soundness. The Finance Board did not have this intent in proposing such incentives. Accordingly, the final rule permits such incentives but does not require them.

The Finance Board expects that incentive plans submitted to it for review and approval will include a process to identify potential award or incentive recipients from members and public sources. In reviewing records of Community Support, the Banks must use the definitions and concepts contained in this final rule, but will be given latitude in determining award and incentive structures, amounts, and categories.

As part of an incentive program, the regulation allows the FHLBanks to include awards and technical assistance to non-profit developers and community groups as well. To qualify, these awards or technical assistance programs should be undertaken with the objective of simulating new partnerships between lenders and community organizations. Advisory Council member organizations may be eligible to participate in the programs, but the Banks will be expected to administer the programs to ensure there is no favoritism or conflict of interest.

9. Section 936.9—Reports

FIRREA, in section 721, requires that the Finance Board prepare an annual report to Congress presenting the Advisory Councils' evaluation of the FHLBanks' affordable housing activities during the preceding year. This section of the final rule expands the Finance Board's reporting requirement to include a discussion of the Community Support activities, and directs each Advisory Council to include an analysis of their FHLBank's Community Support activities when reporting annually to the Finance Board.

F. Findings and Certifications

Impact on the economy. This final rule does not constitute a "major rule" as that term is defined in section 1(d) of Executive Order 12291 issued by the President on February 17, 1981. An analysis of the final rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Impact on small entities. In accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), the undersigned hereby certifies that this final rule does not have a significant economic impact on a substantial number of small entities, since it requires only the minimum burden required by the statute in the way of documentation.

Regulatory agenda. This final rule was listed in the Finance Board's Semiannual Agenda of Regulations published on October 29, 1990 (55 FR 44530), pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

Information collection requirements. The information collection requirements contained in this final rule will be submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act of 1980, 44 U.S.C. chapter 35. A notice of such requirements will be published in the **Federal Register** at the time. When these collections have been approved, the Finance Board will publish a document to that effect in the **Federal Register.**

List of Subjects in 12 CFR Part 936

Credit, Federal Home Loan Banks, Housing, Reporting and recordkeeping requirements.

Accordingly, the Finance Board hereby amends chapter IX, title 12, Code of Federal Regulations, by adding a new Part 936, to read as follows:

PART 936—COMMUNITY SUPPORT REQUIREMENTS

Sec.
936.1 Definitions.
936.2 Purpose.
936.3 Community Support Statements.
936.4 Review of Community Support Statements.
936.5 Community Support Action Plans.
936.6 Review of Community Support Action Plans.
936.7 Restrictions on Access to Long-Term Advances.
936.8 Bank Community Support Programs.
936.9 Reports.

Authority: 12 U.S.C. 1422a, 1422b, 1429, 1430 (a) (g), (i), and (j), and 1432(a).

§ 936.1 Definitions.

(a) *Advance* means a loan, provided pursuant to a formal agreement supported by a promissory note and fully secured, from a Bank to one of its members.

(b) *Advisory Council* means the advisory council established by a Bank as required by section 10(j)(11) of the Federal Home Loan Bank Act, 12 U.S.C. 1430(j)(11), and the implementing regulations in 12 CFR part 960.

(c) *Affordable Housing Program* means the program required by section 10(j) of the Federal Home Loan Bank Act, 12 U.S.C. 1430(j), and the implementing regulations in 12 CFR part 960.

(d) *Area* means a metropolitan statistical area, a county, or a non-metropolitan area, as established by the Office of Management and Budget.

(e) *Bank* means a Federal Home Loan Bank established under the authority of the Federal Home Loan Bank Act.

(f) *Board* means the Federal Housing Finance Board or an official duly authorized to act on its behalf.

(g) *Community Investment Program* means the program(s) established by the Banks as required by section 10(i) of the Federal Home Loan Bank Act, 12 U.S.C. 1430(i).

(h) *CRA Evaluation* means the public disclosure portion of a Community Reinvestment Act Performance Evaluation, given to a member by its primary federal regulator pursuant to a compliance examination. The CRA Evaluation uses the four-tier descriptive rating system described in the Uniform Interagency Community Reinvestment Act Final Guidelines For Disclosure of Written Evaluations and Revised Assessment Rating System, approved on April 25, 1990, and effective July 1, 1990, as they may be amended. These guidelines are available from federal financial regulatory agencies or the Federal Housing Finance Board, Housing Finance Directorate, 1777 F Street, NW., Washington, DC 20006.

(i) *Community Support* means:

(1) Extensions of credit for purchase, construction, or rehabilitation of owner-occupied and rental housing for households whose incomes do not exceed 115 percent of the median income for the area, with demonstrable efforts to finance housing for households whose incomes do not exceed 80 percent of the area median income and for households whose incomes do not exceed 50 percent of the area median income;

(2) Extensions of credit to finance commercial and economic development activities that benefit very low-, low- or moderate-income neighborhoods, including very low-, low-, and moderate-income minority neighborhoods and rural communities;

(3) Development and extension of other loan products, financial services and programs to address community credit needs, including those described in Comprehensive Housing Affordability Strategy Plans, 24 CFR part 91, or as identified by FHLBank Advisory Councils;

(4) Marketing plans and related outreach activities targeted to households in minority, very low-, low-, or moderate-income, or rural communities, including first-time homebuyers;

(5) Active participation in loan consortia, regional lending activities, and similar efforts that benefit very low-income and low- or moderate-income households or which further the activities described in paragraphs (i) (1) through (4) of this section, both within and outside a member's usual market areas and communities;

(6) Any additional loan products, financial services programs or activities that further the items described in paragraphs (i) (1) through (5) of this section; and

(7) In the case of institutions not covered by CRA, such as credit unions, loan products, financial services, programs or activities that further the items described in paragraphs (i) (1) through (5) of this section.

(j) *Community Support Action Plan* means a written report containing the information described in § 936.5 that a member may be required to furnish to the Board.

(k) *Community Support Statement* means a written statement containing the information described in § 936.3 that a member must furnish to the Board.

(l) *Displaced Homemaker* means an individual who is an adult; has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(m) *First-time Homebuyer* means an individual or an individual and his or her spouse who have not owned a home during the three-year period prior to the purchase of a home, except that:

(1) Any individual who is a displaced homemaker may not be excluded from consideration as a first-time homebuyer on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse; and

(2) Any individual who is a single parent may not be excluded from consideration as a first-time homebuyer on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.

(n) *Long-term Advances* means advances with a term to maturity of greater than five years. However, for purposes of this part 936 only, long-term advances are deemed to be advances with a term to maturity of greater than one year.

(o) *Low- or Moderate-income Household* means a household whose income does not exceed 80 percent of the median income for the area, with adjustments for household size, as determined by the U.S. Department of Housing and Urban Development.

(p) *Median Income* means the median household income for an area, with adjustments for household size, as determined by the Department of Housing and Urban Development. Data is available from HUD USER, P.O. Box 6091, Rockville, MD 20850.

(q) *Member* means a financial institution admitted to membership and owning capital stock in a Bank.

(r) *Minority* means any black American, Native American, Hispanic American, or Asian American.

(s) *Primary Federal Regulator* means the federal financial supervisory agency responsible for conducting CRA compliance examinations of members and generally has the same meaning as "appropriate Federal financial supervisory agency" used in the codification of the Community

Reinvestment Act at 12 U.S.C. 2902(1). As specifically applied to CRA compliance, these are:

(1) The Comptroller of the Currency with respect to national banks;

(2) The Board of Governors of the Federal Reserve System with respect to State chartered banks which are members of the Federal Reserve System and bank holding companies;

(3) The Federal Deposit Insurance Corporation ("FDIC") with respect to State chartered banks and savings banks which are not members of the Federal Reserve System and the deposits of which are insured by the FDIC; and

(4) The Office of Thrift Supervision in the case of a savings association (the deposits of which are insured by the FDIC) and a savings and loan holding company.

(t) *Rural* means any open country, or any place, town, village, or city which is not part of or associated with an urban area and which: Has a population not in excess of 2,500 inhabitants, or has a population in excess of 2,500 but not in excess of 10,000 if it is rural in character, or has a population in excess of 20,000 and is not contained within a standard metropolitan statistical area and has a serious lack of mortgage credit for low- or moderate-income households, as determined by the Secretary of Agriculture and the Secretary of Housing and Urban Development. Any area classified as rural as a result of data received from or after the 1990 decennial census shall continue to be so classified until the receipt of data from the decennial census in the year 2000, if such area has a population in excess of 20,000 but not in excess of 25,000, is rural in character, and has a serious lack of mortgage credit for low- or moderate-income households.

(u) *Very Low-income Household* means a household whose income does not exceed 50 percent of the median income for the area, with adjustments for household size, as determined and published by the Department of Housing and Urban Development.

§ 936.2 Purpose.

In this part 936, the Board is promulgating Community Support requirements and procedures pursuant to section 710(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law No. 101–73, 103 Stat. 183, 418–419. Section 710(c) added a new section 10(g) to the Federal Home Loan Bank Act of 1932, 12 U.S.C. 1430(g), which provides that the Board shall establish standards of community investment or service for members of Banks to maintain continued access to long-term advances.

§ 936.3 Community Support Statements.

(a) A Community Support Statement shall be submitted by each member to its Bank on a schedule established by the Board as described in § 936.4. A member who is subject to the Community Reinvestment Act but does not have a CRA Evaluation, as defined in this part, will not be reviewed until the member receives a CRA Evaluation. However, if within two years from the effective date of these regulations, substantially all members have not received CRA Evaluations, the Board intends to develop separate Community Support Standards for purposes of this part.

(b) A Community Support Statement shall include:

(1) In the case of a member with a CRA Evaluation of "Outstanding" or "Satisfactory," the CRA Evaluation;

(2) In the case of a member with a CRA Evaluation of "Needs to improve" or "Substantial non-compliance," the CRA Evaluation and an explanation of how the member has corrected or proposes to correct the deficiencies identified in the CRA Evaluation;

(3) In the case of credit unions and other members who are not subject to the Community Reinvestment Act, a detailed description of the member's Community Support activities;

(4) In all cases, evidence of assistance to first-time homebuyers, such as:

(i) A description of special credit products benefiting first-time homebuyers by providing flexible underwriting or qualifying criteria;

(ii) Evidence of participation in governmental homeownership or other programs of benefit to first-time homebuyers;

(iii) A description of any special counseling programs or other such activities for first-time homebuyers;

(iv) Marketing plans to reach first-time homebuyers;

(v) Expanded collection of loan distribution data to include loan origination to first-time homebuyers; or

(vi) Any other tangible evidence of support for first-time homebuyers;

(5) In all cases, identification and documentation of any final administrative or judicial ruling against the member, within the two years prior to the due date of submission of a Community Support Statement, based on violations of the Fair Housing Act (42 U.S.C. 3601 *et seq.*), the Equal Credit Opportunity Act (15 U.S.C. 1691 *et seq.*), or any similar state or local law prohibiting discrimination in lending, including a statement of the violation, finding, or verdict and an explanation of the steps taken by the member to remedy the violation or prevent a recurrence; and

(6) In all cases, any additional evidence of Community Support that the member wishes to submit, such as:

(i) Mortgage and loan origination to minority households, very low-, low- or moderate-income households, rural communities, or first-time homebuyers;

(ii) Marketing plans or activities specifically aimed at minority households, very low-, low- or moderate-income households, rural communities, and first-time homebuyers; and

(iii) Other indications of the member's responsiveness to the credit needs of minority households, very low-, low- or moderate-income households, rural communities, and first-time homebuyers.

(c) A member that chooses not to submit a Community Support Statement shall be subject to restrictions on access to long-term advances as provided in § 936.7.

§ 936.4 Review of Community Support Statements.

(a) The Board shall begin review of selected members' Community Support Statements in March 1992. Review of members' Community Support Statements shall occur on a quarterly basis so that each member will be reviewed approximately every two years.

(b) The Board shall notify the Banks of the members in their districts who have been selected for review and immediately publish in the **Federal Register**:

(1) The name and address of those members selected for review;

(2) The closing date by which members chosen for review must submit their Community Support Statement to their Banks for transmittal to the Board and by which public comments must be submitted to the Banks for transmittal to the Board, provided that this date shall not be less than 45 days from the date of the **Federal Register** publication by the Finance Board announcing the quarterly review of the Community Support activities of members.

(c) Within 15 days of the **Federal Register** publication, each Bank shall, in writing:

(1) Notify members selected for review that their Community Support Statements are to be submitted to their Bank by the date designated in the **Federal Register**; and

(2) Notify their respective Advisory Councils, and community groups and individuals that are on the mailing list

maintained in accordance with § 936.8(e), of the members selected for Community Support review and of the closing date designated in the **Federal Register** for the Bank's receipt of written public comments.

(d) Within 15 days after the due date for receipt of Community Support Statements from those members undergoing review and public comments, each Bank shall:

(1) Review each member's Community Support Statement for completeness pursuant to the requirements of § 936.3(b);

(2) Notify any member whose Statement is incomplete and offer assistance in promptly completing the Statement;

(3) Forward to the Board:

(i) All Community Support Statements;

(ii) All written public comments received during the comment period; and

(iii) A list of members selected who failed to submit a Community Support Statement in accordance with § 936.3(b).

(e) Within 60 days after receiving the Community Support Statements and comment letters from each Bank, the Board shall:

(1) Review the Community Support Statements for approval or disapproval pursuant to paragraph (f) of this section;

(2) Forward all comments received to the member's primary federal regulator; and

(3) Notify the Bank and the member, in writing, whether or not a member's Community Support Statement is approved. If a member's Community Support Statement is not approved, the Board shall furnish the member with specific reasons for its decision and provide an additional 45 days for the member to develop and submit a modified Community Support Action Plan for Board review and approval, in accordance with §§ 936.5 and 936.6.

(f) In reviewing the Community Support Statements, the Board shall consider the following:

(1) The CRA Evaluation and any deficiencies cited by the primary federal regulator concerning residential lending activities or other assessment factors in the CRA Evaluation directly related to Community Support;

(2) Policies, programs, and activities to assist first-time homebuyers as described in § 936.3(b)(4);

(3) Information submitted by the member pursuant to § 936.3(b)(5);

(4) Any other evidence of Community Support activities submitted by the member pursuant to § 936.3(b)(6);

(5) Public comments received; and

(6) Evidence of Community Support loan volume commensurate with the member's financial condition and size, legal impediments, and local economic conditions.

§ 936.5 Community Support Action Plans.

(a) The Board shall require a Community Support Action Plan from any member whose Community Support Statement has been disapproved.

(b) A Community Support Action Plan shall be submitted by the member to the Bank within 45 days of the Board's notice to the member and the Bank that an Action Plan is required. The Action Plan shall include:

(1) A statement of how the member has addressed or will address those deficiencies cited by the Board in its review of the member's Community Support Statement;

(2) A statement of Community Support activities and goals to be pursued during the next 12 months; and

(3) Details of how the goals included in the Action Plan will be measurable.

§ 936.6 Review of Community Support Action Plans.

(a) Within 15 days after receiving a Community Support Action Plan from a member, the Bank shall:

(1) Review the Action Plan for completeness pursuant to § 936.5(b);

(2) Notify the member if an Action Plan appears to be incomplete; and

(3) Forward a copy of the Action Plan to the Board.

(b) Within 30 days of receiving the Action Plan, the Board shall review the Action Plan pursuant to the criteria in § 936.6(d), and shall notify the member and the Bank in writing as to whether the Action Plan has been approved. If the Action Plan is not approved, this notice shall include the reasons for disapproval.

(c) The Board's initial decision to disapprove a Community Support Action Plan shall not be effective for 30 days from the date of mailing written notice of disapproval to the member. During this 30-day period, the member may submit an amended Action Plan addressing the reasons given by the Board for disapproval of its initial Action Plan. Within 15 days of receipt of the amended Action Plan, the Board shall notify the member in writing of the board's decision approving or disapproving the amended Action Plan; this decision shall be effective immediately upon mailing of a written notice to the member.

(d) In reviewing a Community Support Action Plan, the Board shall consider the following:

(1) The extent to which the Action Plan addresses Board-indentified deficiencies and sets appropriate and realistic goals to correct these deficiencies; and

(2) The extent to which the member's goals meet Community Support standards and are responsive to the credit needs in that member's community. In making these assessments, the Board will take into account such factors as a member's financial condition and size, and local economic conditions.

(e) One year from the date of the Board's approval of the Action Plan, the Board will review the member's implementation of the Action Plan to determine whether or not the goals outlined in the Action Plan have been met. In the month preceding the one-year anniversary of Board approval of a member's original or amended Action Plan, the Board shall request in writing, and the member shall submit, a report to the Board on the member's progress toward meeting the goals of the Action Plan. The member may consult with its Bank or directly with the board in preparing this report.

(f) Upon review of the member's performance, the Board may terminate, modify, or extend the Action Plan. If the Board finds that the member has not substantially met the goals of its Action Plan, the Board shall restrict the member's access to long-term advances pursuant to § 936.7.

§ 936.7 Restrictions on access to long-term advances.

(a) A member's access to long-term advances will be restricted only if the member:

(1) Refuses to comply with the procedures of this part;

(2) Submits a Community Support Action Plan that does not receive Board approval; or

(3) Fails to substantially meet the goals stated in its Action Plan within one year.

(b) The Board's decision to restrict a member's access to long-term advances shall not be effective for 30 days. During this 30-day period the member may submit additional information regarding its achievement of the goals of the Action Plan. The Board shall notify the member of its decision following review of the additional material and the Board's decision shall be effective immediately upon mailing of the notice to the member.

(c) A member with a CRA Evaluation of "Outstanding" or "Satisfactory" shall have unrestricted access to long-term advances unless the Board finds that its

Community Support Statement does not adequately establish a reasonable commitment to residential lending and Community Support, and these deficiencies are not corrected in an Action Plan as specified in § 936.5(b), or if the member, after an adjudication of violations of fair housing or equal credit opportunity laws, fails to correct its lending practices as appropriate.

(d) Under no circumstances will any member be restricted from access to advances under either the Affordable Housing or Community Investment Programs.

(e) Within 15 days of the date on which the Board determines the existence of one or more of the conditions in paragraph (b) of this section, the Board shall notify the member and its Bank that the member's access to new long-term advances, as used in this section, has been suspended. Upon receipt of the notice, the Bank shall make no new advances or extensions of advances for a term of longer than one year to the member.

(f) Any restrictions on a member's access to long-term advances may be waived by the Board where such restriction may, in the Board's judgment, undermine the member's safety and soundness. A request for a waiver shall be submitted directly to the Board, shall be in writing, and shall contain a clear and concise statement of the basis for the waiver.

(g) The Board will decide when to remove restrictions on a member's access to long-term advances. In making this decision, the Board will be guided by the member's performance in meeting the goals established under its Action Plan. A member may petition the Board for termination of restrictions after 180 days from the imposition of such restrictions. Such a petition shall state with specificity how the member has substantially met or exceeded the goals in its Community Support Action Plan. The Board will review any petition and given written notice to the member of its decision within 30 days of receipt of the petition. If the Board decides to lift restrictions to long-term advances, that decision will be effective immediately upon mailing of notice to the member.

§ 936.8 Bank Community Support Programs.

(a) Each Bank shall establish and maintain, subject to Board approval, a Community Support Program for members, consistent with the safety and soundness of the Bank. Such programs should:

(1) Provide technical assistance to individual members in developing Community Support Statements and Community Support Action Plans;

(2) Promote and expand the use of advances, both special and regular, for Community Support lending and affordable housing finance;

(3) Identify opportunities for members to expand financial and credit services in neighborhoods and communities that are underserved, particularly minority households, very low-, low- or moderate-income urban, and rural communities; and

(4) Provide incentives to members of a monetary or nonmonetary nature; such incentives may include discounts and/or preferred terms on advances to members with outstanding records of Community Support and may also include awards and technical assistance to non-profit housing developers and community groups with outstanding records of public/private partnerships in Community Support with members of the Bank.

(b) Each Bank shall consult with its Advisory Council in developing and implementing initiatives to increase the use of advances for Community Support.

(c) Each Bank shall provide notice to all members and interested parties of activities of the Bank's Affordable Housing Program, Community Investment Program, and other Bank programs to help members meet their Community Support and affordable housing finance needs.

(d) Each Bank shall provide, twice a year, to all members:

(1) A summary of Community Support lending and affordable housing finance projects being undertaken by members within the Bank's district; and

(2) Any additional information concerning affordable housing finance activities of non-members of the Bank that may be of use to members.

(e) Each Bank shall maintain a mailing list of community groups and interested parties to be notified of the quarterly selection of members for review pursuant to the procedures specified in § 936.4.

§ 936.9 Reports.

Pursuant to 12 U.S.C. 1430(j)(12) and 12 CFR 960.14, the Finance Board provides an annual report to Congress presenting evaluations by the Advisory Councils of their Bank's performance of affordable housing activities during the preceding year. Beginning with reports filed in 1993 and each year thereafter, each Advisory Council will be encouraged to include an analysis of its Bank's Community Support activities in its report to the Finance Board. Beginning in 1993 and continuing each year thereafter, the Finance Board's annual report to Congress shall include an analysis of Bank and Board activities pursuant to this part.

By the Federal Housing Finance Board.

Daniel F. Evans, Jr.,

Chairman.

[FR Doc. 91-27945 Filed 11-20-91; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[Docket No. 911169-1269]

Reef Fish Fishery of the Gulf of Mexico

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

ACTION: Final rule, technical amendment.

SUMMARY: NMFS issues this technical amendment to clarify the regulations governing permits and fees for the reef fish fishery of the Gulf of Mexico. This rule (1) clarifies who must meet the earned income qualification for a permit when the vessel owner is a partnership; (2) clarifies that fees are charged to process a permit application, removes the amounts of fees from the regulations, and provides that the amounts of fees that must be remitted will be specified with each application; (3) clarifies that an application for renewal of a permit is not complete until all required reports have been submitted; and (4) makes other minor changes for clarity and conformance with standard usage. The intended effect of this rule is to clarify the regulations and ensure standardization of similar requirements among federally managed fisheries in the Gulf of Mexico.

EFFECTIVE DATE: November 21, 1991.

FOR FURTHER INFORMATION CONTACT: W. Perry Allen, 813-893-3722.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) prepared by the Gulf of Mexico Fishery Management Council, and its implementing regulations at 50 CFR part 641, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). This technical amendment revises the permits section of the implementing regulations to: (1) Clarify who must meet the earned income qualification for a permit when the vessel owner is a partnership; (2)

clarify that fees are charged to process a permit application, remove the amounts of fees from the regulations, and provide that the amounts of fees that must be remitted will be specified with each application; (3) clarify that an application for renewal of a permit is not complete until all required reports have been submitted; and (4) make other minor changes for clarity and conformance with standard usage.

When a vessel for which a permit is requested is owned by a partnership, the earned income requirement for a permit must be met by a general partner or by the vessel operator. This requirement: (1) Is the equivalent of the requirement applicable to a corporate-owned vessel where the earned income requirement must be met by an officer or shareholder of the corporation or by the vessel operator; and (2) does not constitute a change in the practice of issuing permits.

This rule clarifies that a fee is charged for each application submitted for a permit, rather than for each permit issued, and for each fish trap identification tag issued. Most of NMFS's costs in administering the permit system are incurred in processing applications, rather than in issuing permits and tags. The Magnuson Act authorizes a level of fees not exceeding the administrative costs of processing applications and issuing the permits. At least annually, NMFS computes its costs in accordance with the NOAA Finance Handbook. Costs vary based on such things as increases in Federal salaries/overhead and reductions due to improved efficiency in the permitting system. Based on current administrative costs, commencing with applications for reef fish permits for 1992, the fee for each application for a vessel permit will be $34, for a replacement permit will be $7, and for each fish trap identification tag will be $1. Corresponding fees in 1991 were $23, $0, and $1.

This rule removes the 1991 fee amounts from the regulations. Commencing with applications for reef fish permits for 1992, the amounts of the fees that must be remitted with each application will be specified by NMFS with the application forms.

Effective management of the reef fish resources is dependent on the timely receipt of required catch and effort reports. Under the current regulations, NMFS did not renew a reef fish permit for 1991 until the applicant had submitted all required reports for the period preceding his application for renewal. This rule restates that practice for clarity. To ensure adequate notice of reporting deficiencies during 1991, in September 1991 NMFS notified each permit holder of delinquent reports through March. In addition, deficiencies will be specified when renewal applications are distributed in October/November 1991. As was the case last year, an applicant's permit for 1992 will be renewed when all required reports have been received.

Classification

This technical amendment is issued as a final rule under 50 CFR part 641 and complies with E.O. 12291.

Because this rule (1) makes non-substantive clarifications to the regulations and (2) does not change operating practices in the reef fish fishery, the Assistant Administrator for Fisheries, NOAA, under section 553(b)(B) and (d) of the Administrative Procedure Act (5 U.S.C. 553) for good cause finds that it is unnecessary and contrary to the public interest to provide notice and public comment on this rule or to delay for 30 days its effective date.

This rule is minor and technical and, therefore, is not a major rule under E.O. 12291. There is no significant change in the regulatory impacts that were previously reviewed and analyzed.

Because this rule is being issued without prior public comment, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act and none has been prepared.

Because this rule makes no changes that were not analyzed in the environmental assessment documents previously prepared to comply with the National Environmental Policy Act, this rule is categorically excluded from the requirement to prepare an environmental assessment by NOAA Directive 02-10.

This rule does not directly affect the coastal zone of any state with an approved coastal zone management program.

This rule involves a collection-of-information requirement subject to the Paperwork Reduction Act. That collection has been approved by the Office of Management and Budget under control number 0648-0205.

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

List of Subjects in 50 CFR Part 641

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: November 15, 1991.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 641 is amended as follows:

1. The authority citation for part 641 remains 16 U.S.C. 1801 *et seq.*

PART 641—REEF FISH FISHERY OF THE GULF OF MEXICO

2. In § 641.4, paragraph (b)(4) is removed; and the section heading and paragraphs (a)(3), (c), (d), (e), (f), (i), and (k) are revised to read as follows:

§ 641.4 Permits and fees.

* * * * *

(a) * * *

(3) For a corporation or partnership to be eligible for a vessel permit, the earned income qualification specified in paragraph (b)(2)(xi) of this section must be met by, and the statement required by that paragraph must be submitted by, an officer or shareholder of the corporation, a general partner of the partnership, or the vessel operator.

* * * * *

(c) *Change in application information.* The owner or operator of a vessel with a permit must notify the Regional Director within 30 days after any change in the application information specified in paragraph (b) of this section. The permit is void if any change in the information is not reported within 30 days.

(d) *Fees.* A fee is charged for each permit application submitted under paragraph (b) of this section and for each fish trap identification tag required under § 641.6(d). The amount of the fees is calculated, at least annually, in accordance with the procedures of the NOAA Finance Handbook for determining the administrative costs of each special product or service, and may not exceed such costs. Applicable fees are specified with the application form and must be remitted with each application or request for fish trap identification tags.

(e) *Issuance.*

(1) The Regional Director will issue a permit at any time to an applicant if the application is complete and the applicant meets the earned income requirement specified in paragraph (b)(2)(xi) of this section. An application is complete when all requested forms, information, and documentation have been received and the applicant has submitted all applicable reports specified at § 641.5.

(2) Upon receipt of an incomplete application, the Regional Director will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 30 days of the date of the Regional Director's letter of notification, the application will be considered abandoned.

(f) *Duration.* A permit remains valid for the period specified on it unless the vessel is sold or the permit is revoked, suspended, or modified pursuant to subpart D of 15 CFR part 904.

* * * * *

(i) *Sanctions and denials.* A permit issued pursuant to this section may be revoked, suspended, or modified, and a permit application may be denied, in accordance with the procedures governing enforcement-related permit sanctions and denials found at subpart D of 15 CFR part 904.

* * * * *

(k) *Replacement.* A replacement permit may be issued. An application for a replacement permit will not be considered a new application. A fee, the amount of which is stated with the application form, must accompany each request for a replacement permit.

[FR Doc. 91-27983 Filed 11-18-91; 12:48 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 56, No. 225
Thursday, November 21, 1991

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

1 CFR Part 462, 12 CFR Chapter X, 24 CFR Part 81

[Docket No. R-91-1532; FR-2895-N-03]

HUD Regulation of Federal National Mortgage Association and Federal Home Loan Mortgage Corporation

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule and request for comments; extension of comment period.

SUMMARY: The comment period announced in HUD's proposed rule published on August 16, 1991 (56 FR 41023) on HUD Regulation of Federal National Mortgage Association and Federal Home Loan Mortgage Corporation was to expire on October 15, 1991. By notice on October 16, 1991 (56 FR 51854), HUD extended the comment period until November 14, 1991. This notice further extends the comment period for the rule to November 28, 1991. This change is being made because various interested parties have expressed the view that more time is needed to develop comments on the rule.

DATES: Comment due date: November 28, 1991.

ADDRESSES: Interested persons are invited to submit comments regarding the proposed rule to the Rules Docket Clerk, Office of the General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication received will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

As a convenience to commenters, the Rules Docket Clerk will accept brief public comments transmitted by facsimile (FAX) machine. The telephone number of the Fax receiver is (202) 708-4337. (This is not a toll-free number). Only public comments of six or fewer pages will be accepted via FAX transmittal. This limitation is necessary in order to assure reasonable access to the equipment. Comments sent by FAX in excess of six pages will not be accepted. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Rules Docket Clerk (202) 708-2084.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Markison, Assistant General Counsel for Administrative Law, telephone (202) 708-3137 or Walter T. Cassidy, Senior Financial Institutions Regulation Attorney, telephone (202) 708-2088; Office of the General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. A telecommunications device for deaf persons (TDD) is available at (202) 708-9300. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION: In accordance with section 309(h) of title III of the National Housing Act (the FNMA Charter Act), 12 U.S.C. 1723a(h), the Secretary of Housing and Urban Development has general regulatory power over the Federal National Mortgage Association (FNMA). HUD's regulations governing FNMA, at 24 CFR part 81, were last revised by a rule published on August 15, 1978 at 43 FR 36200, effective September 14, 1978. The Secretary has determined that substantial revisions are now needed to update the regulations to provide for detailed oversight and for the financial safety and soundness of FNMA. Under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Public Law 101-73, 103 Stat. 183, the Secretary also acquired general regulatory power over the Federal Home Loan Mortgage Corporation (FHLMC). Accordingly, the proposed rule amends and updates the Secretary's FNMA regulations, and establishes parallel regulations for FHLMC.

Various interested parties have requested that the Department extend the comment due date so that commenters would have sufficient time to provide comments. Because of the pressing need to assure adequate regulation of FNMA and to establish regulations for FHLMC, the Department does not want to delay this process unduly. The Department does want to provide a reasonable opportunity for public participation. Accordingly, the comment period is being extended until November 28, 1991. Comments received during the extended period will be considered, along with those previously submitted, in the development of the final rule.

Dated: November 15, 1991.

Alfred A. DelliBovi,

Deputy Secretary.

[FR Doc. 91-28074 Filed 11-20-91; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-NM-95-AD]

Airworthiness Directives; Boeing Model 747-400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (nprm); reopening of comment period.

SUMMARY: This notice proposes to revise an earlier proposed airworthiness directive (AD), applicable to certain Boeing Model 747-400 series airplanes, which would have required modification to the cargo compartment and engine fire detection and extinguishing systems. That proposal was prompted by reports of crossed wiring and plumbing in the cargo compartment smoke detection system and engine fire extinguishing systems on Boeing airplanes of similar design. Incorrectly installed fire detection and extinguishing systems could result in the failure to properly detect or extinguish a fire in the cargo compartment or in an engine. This action revises the proposed rule by revising the service information to cite a later revision of one of the referenced service bulletins; adding one airplane to the applicability of the rule; and revising the procedures for the accomplishment of one of the required modifications.

DATES: Comments must be received no later than December 23, 1991.

ADDRESSES: Send comments on the proposal in duplicate to Federal

Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 91-NM-95-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Jon Regimbal, Seattle Aircraft Certification Office, Propulsion Branch, ANM-140S; telephone (206) 227-2687. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 91-NM-95-AD." The post card will be date stamped and returned to the commenter.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations to require modification of the engine and cargo compartment fire detection and protection systems to prevent mis-plumbing or mis-wiring during airplane maintenance on certain Boeing Model 747-400 series airplanes, was published in the **Federal Register** on May 22, 1991 (56 FR 23529). That action was prompted by reports of crossed wiring in the cargo compartment smoke detection system and reports of crossed plumbing and wiring in the cargo compartment and engine fire extinguishing systems on Boeing airplanes of similar designs. These conditions, if not corrected, could result in loss of the ability of the forward cargo compartment smoke detection system to generate a warning to the flight deck in the event of a cargo compartment fire, or could result in loss of the ability to discharge fire extinguishing agent into the correct cargo compartment or to the correct engine in the event of a fire.

Since issuance of the proposal, the FAA has reviewed and approved Boeing Service Bulletin 747-26-2143, Revision 1, dated August 15, 1991, which describes the re-routing of cargo compartment fire extinguishing system plumbing and wiring to ensure that the connections will be re-installed correctly during system maintenance. The procedure described for performing this modification are different from those that appeared in the original issue of the service bulletin: the location of the squib connectors is corrected, and the installation of markers on the main deck fire extinguishing system is shown. This revision also adds one airplane to the effectivity of the service bulletin.

The FAA has determined that the proposed rule must be revised to require the accomplishment of the modification as outlined in the revised service bulletin, since it is these procedures, as specifically changed, which will adequately address the unsafe condition. Additionally, the FAA has determined that an additional airplane must be added to the applicability of the rule with regard to the modification that would be required by proposed paragraph (a), since that airplane is also subject to the unsafe condition addressed by this rulemaking action.

Since these changes would increase the scope of the AD, the comment period has been reopened to provide additional time for public comment on the revised proposal.

There are approximately 102 Model 747-400 series airplanes of the affected design in the worldwide fleet. It is estimated that 18 airplanes of U.S. registry would be affected by this AD. For 16 of these airplanes, it is estimated that it would take approximately 185 manhours per airplane to accomplish the proposed actions, and that the average labor cost would be $55 per manhour. The parts cost for each of these airplanes would be $11,263, bringing the total cost per airplane to $21,438. For the remaining two airplanes it is estimated that it would take 37 manhours to accomplish the proposed actions, and that the average labor cost would be $55 per manhour. The parts cost for these airplanes would be $4,092, bringing the total cost per airplane to $6,127. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $355,262.

If any operator previously has accomplished the modification of the cargo compartment fire extinguishing system plumbing and wiring in accordance with Boeing Service Bulletin 747-26-2143, original issue, dated December 20, 1990, approximately 11 additional manhours would be required to accomplish the modification in accordance with Revision 1 of that service bulletin, as now would be required by this supplemental action. The average labor cost would be $55 per manhour. Based on these figures, the cost impact of this proposed AD for these operators would entail an additional $605 per airplane.

The regulations proposed herein would 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 proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons dicussed above, I certify that this proposed regulation (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) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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); and 14 CFR 11.89.

§ 39.13 [Amended]

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

Boeing: Docket 91–NM–95–AD.

Applicability: Model 747–400 series airplanes up to and including line position 839, certificated in any category.

Compliance: Required within the next 12 months after the effective date of this AD, unless previously accomplished.

To preclude cross connection of cargo compartment and engine fire protection wiring and plumbing during maintenance, accomplish the following:

(a) For airplanes identified in Boeing Service Bulletin 747–26–2143, Revision 1, dated August 15, 1991: Modify the cargo compartment fire extinguishing system plumbing and wiring in accordance with that service bulletin.

(b) For airplanes identified in Boeing Service Bulletin 747–26–2164, dated February 14, 1991: Modify the engine fire control module in accordance with that service bulletin.

(c) For airplanes identified in Boeing Service Bulletin 747–26–2168, dated March 28, 1991: Modify the cargo compartment smoke detection system wiring in accordance with that service bulletin.

(d) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on November 6, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–28013 Filed 11–20–91; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 91–CE–81–AD]

Airworthiness Directives; SOCATA Groupe AEROSPATIALE Morane Saulnier MS890 Series and Rallye 235 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) that would be applicable to SOCATA Groupe AEROSPATIALE Morane Saulnier MS890 series and Rallye 235 series airplanes. This proposed action would require repetitive dye penetrant inspections of the nose wheel axle for cracks, replacement of the nose wheel axle if found cracked, and replacement of the nose wheel axle attaching screws. Analysis has shown that cracks could form in the nose wheel axle and the nose wheel axle attaching screws could fail over time. The actions specified in this proposed AD are intended to prevent loss of control of the airplane caused by nose gear wheel axle fatigue failure.

DATES: Comments must be received on or before January 25, 1992.

ADDRESSES: Service information that is applicable to this AD may be obtained from SOCATA Groupe AEROSPATIALE, Socata Product Support, Aeroport Tarbes-Ossun-Lourdes, B P 930, 65009 Tarbes Cedex, France; Telephone 62.41.74.26; Facsimile 62.41.74.32; or the Product Support Manager, U.S. AEROSPATIALE, 2701 Forum Drive, Grand Prairie, Texas 75053; Telephone (214) 641–3614; Facsimile (214) 641–3527. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–CE–81–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond A. Stoer, Program Officer, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium; Telephone (322)513.38.30; Faicsimile (322) 230.68.99; or Mr. Mike Dahl, Project Officer, Small Airplane Directorate, Airplane Certification Service, FAA, 601 E. 12th Street, Kansas City, Missouri 64106; Telephone (816) 426–6932; Facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–CE–81–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Direction Generale de L'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on SOCATA Groupe AEROSPATIALE Morane Saulnier MS890 series and Rallye 235 series airplanes. The DGAC advises that cracks could form in the nose wheel axle and the nose wheel axle attaching screws could fail over time. This situation could result in nose wheel axle failure, which could cause loss of control of the airplane. The manufacturer, SOCATA Groupe AEROSPATIALE, has issued Service Bulletin (SB) No. 150, dated June 1991, which specifies procedures for dye penetrant inspections of the nose gear wheel axle for cracks, and replacement procedures for the nose gear wheel axle attaching screws. The DGAC classified this service bulletin as Imperative and issued DGAC AD 91–163(a) in order to assure the airworthiness of these

airplanes in France. The airplanes are manufactured in France and are type certificated for operation in the United States. Pursuant to a bilateral airworthiness agreement, the DGAC has kept the FAA totally informed of the above situation.

The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States. Since this condition could exist or develop in other SOCATA Groupe AEROSPATIALE Morane Saulnier MS890 series and Rallye 235 series airplanes of the same type design, the proposed AD would require repetitive dye penetrant inspections of the nose wheel axle for cracks, replacement of the nose wheel axle if found cracked, and replacement of the nose wheel axle attaching screws. The actions would be accomplished in accordance with the instructions in SOCATA Groupe AEROSPATIALE SB No. 150, dated June 1991.

It is estimated that 72 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 2 hours per airplane to accomplish the proposed action, and that the average labor rate is approximately $55 an hour. Parts cost approximately $16 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $9,072.

The regulations proposed herein would 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 proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (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) if promulgated, will not have a significant economic impact, positive or negative, or a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it 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, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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); and 14 CFR 11.89.

§ 39.13— [Amended]

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

SOCATA GROUPE AEROSPATIALE:
Docket No. 91–CE–81–AD.

Applicability: Morane Saulnier Models MS892A150, MS892E150, MS893A, MS893E, MS894A, and MS894E airplanes (all serial numbers); and Rallye Models 235C and 235E airplanes (all serial numbers), certificated in any category.

Compliance: Required initially upon the accumulation of 500 hours time-in-service (TIS) or within the next 50 hours TIS after the effective date of this AD, whichever occurs later, and thereafter as indicated, unless already accomplished.

To prevent nose wheel axle fatigue failure, accomplish the following:

(a) Dye penetrant inspect the nose wheel axle assembly for cracks in accordance with the instructions in DESCRIPTION: (1) Of SOCATA Groupe AEROSPATIALE Service Bulletin No. 150, dated June 1991.

(1) If cracks are found, prior to further flight, replace the nose wheel axle assembly in accordance with the applicable maintenance manual, return the airplane to service, and reinspect at intervals not to exceed 500 hours TIS.

(2) If no crack are found, return the airplane to service and reinspect at intervals not exceed 500 hours TIS.

(b) At every 4th repetitive inspection interval (2,000 hours TIS) mandated in paragraphs (a)(1) and (a)(2) of this AD, replace the nose wheel axle attaching screws instead of reinstalling the existing screws as specified in the instructions and DESCRIPTION:

(2) Of SOCATA Groupe AEROSPATIALE SB No. 150, dated June 1991.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety, may be approved by the Manager, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Office.

(e) Copies of the service information that is applicable to this AD may be obtained from SOCATA Groupe AEROSPATIALE, Socata Product Support, Aeroport Tarbes-Ossum-Lourdes, B P 930, 65009 Tarbes Cedex, France, or may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri.

Issued in Kansas City, Missouri, on November 13, 1991.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–28014 Filed 11–20–91; 8:45 am]

BILLING CODE 4910–13–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[AD–FRL–4032–7]

Reclassification of Moderate PM–10 Nonattainment Areas to Serious Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: Several areas meeting the qualifications of section 107(d)(4)(B) of the Clean Air Act (Act) were designated nonattainment for PM–10 (particulate matter nominally 10 microns or smaller in diameter) by operation of law upon enactment of the Clean Air Act Amendments of 1990. All of these areas were also initially classified as moderate nonattainment areas by operation of law at the time of designation in accordance with section 188(a) of the Act.

Section 188(b)(1) of the Act requires the Administrator to reclassify any area he determines cannot practicably attain the PM–10 national ambient air quality standards (NAAQS) by the appropriate attainment date. Section 188(b)(1)(A) requires early reclassification of appropriate areas designated nonattainment for PM–10 by operation of law. Today, EPA is proposing to reclassify 14 of the initial moderate PM–10 nonattainment areas as serious areas.

The EPA is also soliciting comments today on several questions that are raised by section 188(f) of the Act. Section 188(f) allows the Administrator to waive requirements for certain areas where he determines that (1) anthropogenic sources of PM–10 do not contribute significantly, or (2)

nonanthropogenic sources contribute significantly to the violation of the PM–10 standard in the area. Those questions are raised in section VI of this notice.

DATES: Written comments on this notice must be received by December 23, 1991 at the address below.

ADDRESSES: Written comments on this action should be addressed to Kenneth R. Woodard, Air Quality Management Division, Mail Drop 15, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

The technical reports referenced in today's notice can be found in Public Docket No. A–91–53. The docket is located at the U.S. EPA Air Docket, room M–1500, Waterside Mall, LE–131, 401 M Street, SW., Washington, DC 20460. The docket may be inspected from 8:30 a.m. to 12 noon and from 1:30 p.m. to 3:30 p.m. on weekdays, and a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Woodard, Air Quality Management Division, Mail Drop 15, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541–5697, FTS 629–5697.

SUPPLEMENTARY INFORMATION:

I. Background

On the date of enactment of the Clean Air Act Amendments of 1990 (November 15, 1990), PM–10 areas meeting the qualifications of section 107(d)(4)(B) of the Act were designated nonattainment by operation of law [see generally, 42 U.S.C. section 7407(d)(4)(B) of the Act]. These areas included all former Group I areas identified in 52 FR 29383 (August 7, 1987) and clarified in 55 FR 45799 (October 31, 1990), and any other areas violating the PM–10 standards prior to January 1, 1989 (many of these areas were identified by footnote 4 in the October 31, 1990 **Federal Register** notice). A **Federal Register** notice announcing all of the areas designated nonattainment for PM–10 at enactment and classified as moderate was published in 56 FR 11101 (March 15, 1991). A follow-up notice correcting some of these areas was published August 8, 1991 (56 FR 37654). All other areas not designated nonattainment at enactment were designated unclassifiable [see section 107(d)(4)(B)(iii) of the Act].

Once an area is designated nonattainment, section 188 of the Act [42 U.S.C. section 7513] outlines the process for classification of the area and establishes the area's attainment date. In accordance with section 188(a), at the time of designation, all PM–10 nonattainment areas are initially classified as moderate by operation of law.

A moderate area can subsequently be reclassified as serious either before the applicable moderate area attainment date if at any time EPA determines the area cannot "practicably" attain the PM–10 NAAQS by this attainment date, or following the passage of the applicable moderate area attainment date if EPA determines the area has failed to attain [see section 188(b)].[1]

In accordance with section 188(b)(1)(A), EPA must now propose to reclassify those areas which were designated nonattainment on the date of enactment by operation of law, where EPA determines that the area cannot "practicably" attain the NAAQS by December 31, 1994. The EPA also has discretionary authority under section 188(b)(1) to reclassify any of these areas as serious after December 31, 1991 (e.g., after reviewing the State's PM–10 SIP), if EPA determines they cannot practicably attain the PM–10 NAAQS by December e1, 1994. The EPA may exercise this discretion where, for example, EPA may exercise this discretion where, for example, EPA originally believed an area could attain the standards by December 31, 1994, but later determines that it cannot attain by that date. For example, EPA may find that an area cannot practicably attain by December 31, 1994, after reviewing the November 15, 1991 SIP submittal for an area or upon the failure of a State to submit a SIP for an area.

For areas designated nonattainment and classified as moderate subsequent to the date of enactment, EPA must reclassify appropriate areas as serious within 18 months of the required submittal date for the moderate area SIP [see section 188(b)(1)(B)]. Taken together with he statutory requirement that these SIP's be submitted 18 months after being designated nonattainment, the statute thus requires that EPA reclassify appropriate moderate areas as serious within 3 years of the nonattainment designation.

Finally, in those cases where EPA determines that an area has failed to attain the NAAQS by the applicable attainment date, the area is reclassified as serious by operation of law [see section 188(b)]. The EPA must publish a notice in the **federal Register** of such determinations and consequent reclassifications within 6 months following the applicable attainment date.

II. Determining an Area Cannot Practicably Attain

Generally, EPA will rely on information such as the control strategy, the compliance schedule, and attainment demonstration submitted by the State in the SIP for a moderate PM–10 nonattainment area to determine whether it is practicable to attain the NAAQS in that area by the applicable attainment date. The SIP revisions are due November 15, 1991, for the initial moderate PM–10 nonattainment areas designated by operation of law. The SIP must include a control strategy that requires the use of reasonably available control measures (RACM), including reasonably available control technology (RACT) [see sections 189(a)(1)(c) and 172(c)(1)]. The State must also demonstrate that the SIP provides for timely implementation of RACM and RACT and attainment of the NAAQS. The RACM/RACT must be implemented in the initial PM–10 nonattainment areas by December 10, 1993, and the areas must attain the standards by December 31, 1994 [see sections 188(c)(1) and 189(a)(1)(C)].

There are at least three reasons why an area may not practicably attain the standards by the applicable attainment date. First, implementation of RACM/RACT may not create sufficient emission reductions to bring the area into attainment. Second, nonanthropogenic sources which cannot reasonably be controlled may contribute significantly to the violation of the PM–10 NAAQS in the area [see section

[1] Under the plain meaning of the terms of section 188(b)(1), EPA has general discretion to reclassify at any time before the applicable attainment date any area EPA determines cannot practicably attain the standards by such date. Accordingly, section 188(b)(1) is a general expression of delegated rulemaking authority. In addition, subparagraphs (A) and (B) of section 188(b)(1) mandate that EPA reclassify at specified timeframes [i.e., by December 31, 1991 for the initial PM–10 nonattainment areas, and within 18 months after the State implementation Plan (SIP) submittal due date for later-designated PM–10 nonattainment areas] any areas it determines appropriate for reclassification at those dates. These subparagraphs do not restrict the general authority but simply specify that, at a minimum, it must be exercised at certain times. This interpretation furthers the overarching purpose of the statute in that reclassification would expedite the application of additional control measures in the situation where EPA finds, after the mandated reclassification rulemaking and before the applicable attainment date, that an area cannot practicably attain the standards. This, in turn, would expedite ultimate attainment of the PM–10 standards. In summary, EPA believes it is a reasonable interpretation and consistent with the plain language of the statute to construe section 188(b)(1) such that it authorizes EPA to reclassify an area, as appropriate, at any time before the applicable attainment date and mandates that, at a minimum, EPA make this inquiry at specified times.

188(f)]. Third, the area may be significantly impacted by PM–10 emissions emanating from outside the United States. In such a case, the State may qualify for treatment under section 179B of the Act.

If the SIP demonstrates that an area cannot practicably attain the standards because RACM/RACT do not achieve sufficient emission reductions in a timely manner, then EPA will propose to reclassify the area as a serious area. The EPA has construed RACM, including RACT, to be those emission reduction methods that are technologically and economically feasible for application to existing PM–10 sources in the nonattainment area in light of the attainment needs of that area. The burden is on the State to demonstrate that an available control method for an existing source is infeasible or otherwise unreasonable and, therefore, would not constitute RACM (or RACT).[2] Therefore, the SIP should require implementation of all available emission reduction methods that have not been demonstrated to be unreasonable. The State will have shown that an initial PM–10 nonattainment area cannot practicably attain the NAAQS by the applicable attainment date if it demonstrates that a SIP requiring implementation of all RACM (including RACT) by December 10, 1993, will not achieve sufficient emission reductions to attain the standards by December 31, 1994. In this case, it may be appropriate for the State to modify the SIP to be submitted in November 1991 to reconcile differences between RACT and requirements for best available control technology (BACT) in serious areas, as discussed below in section IV.

If the SIP demonstrates that RACM/RACT would attain the standards if it were not for a significant contribution from nonanthropogenic sources or PM/10 emissions emanating from outside the United States, then special provisions of the Act apply. Section 188(f) allows the Administrator to waive some requirements for certain areas impacted by nonanthropogenic sources, and section 179B allows EPA to approve SIP's and not reclassify areas that cannot attain the standards because of emissions emanating from outside the United States. The EPA's policies for implementing these provisions of the Act are discussed in section VI and VII of this notice.

[2] See "PM–10 Moderate Area SIP Guidance: Final Staff Work Product," a memorandum from John Calcagni, Director, Air Quality Management Division, to Regional Air Division Directors, April 2, 1991, pp. 6–8.

Reclassification of an area as serious does not obviate the legal requirement to submit a moderate area SIP.[3] Also, a State should be penalized if the attainment date for a moderate area is missed because the State fails to adopt and implement control measures as expeditiously as practicable. Therefore, if any State fails to submit a SIP by November 15, 1991, for an initial moderate PM-10 nonattainment area, including the areas EPA proposes to reclassify today, EPA plans to immediately notify the Governor of its intent to impose sanctions under sections 110(m) and 179 of the Act or adopt a Federal implementation plan (FIP) under section 110(c) of the Act. Once imposed, the sanctions will not be removed until the State has satisfied all the applicable planning requirements. Further, EPA may reclassify moderate areas for which a SIP has not been submitted whenever it becomes apparent, perhaps because of the delay in submitting a SIP, that the area cannot practicably attain the standards by the end of 1994.

III. Proposed Action

Since EPA must propose to reclassify the appropriate initial PM–10 nonattainment areas before the moderate area SIP's are required to be submitted, it is necessary to rely on information other than the SIP's to judge whether or not it is practicable for each of the initial areas to attain by December 31, 1994. The EPA has proposed to reclassify appropriate areas based on existing air quality data for these areas. These objective criteria are rebuttable indicators of an area's ability, or inability, to attain the PM–10 standards by December 31, 1994. Therefore, today's proposal is without the benefit of an actual SIP revision demonstrating, or not demonstrating, attainment. However, given the statutory deadline set out in section 188(b)(1)(A), EPA must propose this action before the SIP revisions for the areas subject to reclassification are due. The specified timeframe for final action on this rulemaking and the timeframe specified for an analogous rulemaking for areas subsequently redesignated nonattainment for PM–10, suggests that Congress envisioned that in ultimately determining which areas cannot practicably attain the PM–10 standards by the applicable attainment date and are appropriate for reclassification, EPA would also rely on the SIP revisions submitted for these areas. Thus, while EPA believes the indicators for assessing an area's ability, or inability, to attain are reasonable, they are rebuttable on a case-by-case basis. Further, it is difficult to generalize for PM–10, given widely disparate sources of PM–10 emissions, the availability and feasibility of control measures, etc. Accordingly, during the comment period on this notice, States submitting timely SIP revisions demonstrating that an area identified in today's notice can practicably attain the standards by the applicable attainment date will not be reclassified in EPA's final action on this rulemaking despite the fact that an area meets the objective criteria identified by EPA. Conversely, if EPA receives a SIP revision for an area not identified in today's notice indicating that the area cannot practicably attain the standards by December 31, 1994, then EPA will propose to reclassify the area, as explained earlier in this notice.

The EPA based its judgment on consideration of the precedents set by the statute for ozone and carbon monoxide (CO) nonattainment areas and the magnitude of PM–10 concentrations experienced in the areas during the 3 most recent calendar years.

First, Congress specified in section 181 of the Act that areas with design values for ozone that are approximately 33 percent or more above the NAAQS should be classified as serious, severe, or extreme nonattainment areas, while specifying that areas with design values for CO in excess of approximately 83 percent or more above the NAAQS should be classified as serious.

Several considerations led EPA to select an intermediate criterion of design values 58 percent or more above the PM–10 NAAQS for reclassifications as serious areas. First, although PM–10 nonattainment is generally caused by numerous and diverse categories of emission sources, neither the number of sources nor the variety of categories is as great as in the case of ozone. Consequently, EPA believes that air quality concentrations can more readily

[3] Moderate nonattainment areas "shall submit" an implementation plan which includes, among other things, the requirements set out in section 189(a) (e.g., RACM). If subsequently reclassified as serious, an area must submit a SIP revision which includes, among other things, the requirements set out in section 189(b) [e.g., best available control measures (BACM)]. In spelling out the serious area plan requirements, the statute explicitly provides that these requirements are "[i]n addition to the provisions submitted to meet the requirements . . . relating to Moderate Areas . . . " [see section 189(b)(1)]. Thus, reclassification as serious gives rise to a legal obligation to submit the applicable serious area implementation plan requirements. Further, as explicitly stated, the obligation to submit serious area plan requirements is in addition to and does not obviate the legal obligation to submit moderate area SIP requirements consistent with the applicable statutory deadlines (see discussion later in this notice about reconciling RACM and BACM requirements for areas reclassified as serious).

be reduced in most instances for PM–10 moderate nonattainment areas than for ozone. It follows that the design value for reclassification of PM–10 nonattainment areas from moderate to serious should be higher than the ozone analogy. Second, although the nature and number of sources are less complex for PM–10 than for ozone, PM–10 sources are markedly more diverse than in the case of most CO nonattainment situations, wherein violations can be attributed predominantly to mobile sources. Accordingly, PM–10 moderate area emission reductions may not be as readily achieved as those for CO and, therefore, a PM–10 design value lower than the CO analogy is appropriate. These considerations have thus led EPA to select a design value of 58 percent above the PM–10 NAAQS—a value that falls directly between those represented in the criteria adopted by Congress for ozone and CO—as one basis for proposing to reclassify areas as serious.

Next, EPA believes that multiple, expected exceedances of the standard are appropriate indicators of persistent air quality problems that RACM/RACT may not be adequate to correct. Ambient PM–10 data for the three most recent calendar years (1988–1990) in the Atmospheric Information Retrieval System (AIRS) revealed only a small group of the 70 initial nonattainment areas that still measured PM–10 concentrations far above the 24-hour NAAQS and could be expected to exceed the standard several times each year. Areas where the average number of expected exceedances over 3 years to 6 or more per year have at least 3 measured exceedances over that same period. Therefore, EPA concluded that an expected exceedance rate greater than or equal to 6 per year would adequately distinguish between areas with persistent air quality problems and those with more transitory violations. It should be noted, however, that the expected exceedance rate is not very sensitive, i.e., changing this value up or down slightly does not significantly affect the areas that would be classified serious.

The AIRS data were analyzed to determine the PM–10 design concentrations for the areas with high values during the 1988–1990 calendar years. The look-up table procedure explained in section 6.3.1 of the "PM–10 SIP Development Guideline," EPA–450/2–86–001, June 1987, was followed. The average number of expected exceedances of the 24-hour standard for a year is explained in 40 CFR 50, Appendix K, section 3.

The EPA's analysis identified 14 areas with design concentrations 58 percent or more above the standard [> 237 micrograms per cubic meter ($\mu g/m^3$)] and with 6 or more expected exceedances of the 24-hour standard per year. The 14 areas which meet the above criteria are listed in Table 1 along with the design concentrations and numbers of expected exceedances.[4]

Additional considerations also led EPA to conclude that the above criteria are reasonable. First, in several cases brought to EPA's attention, States attempting to develop control strategies using RACM/RACT for these areas had concluded that it was not practicable to attain the 24-hour standard by December 31, 1994. Second, the annual mean PM–10 concentrations for 1988–1990 exceeded the annual NAAQS (50 $\mu g/m^3$) in 10 of the 14 areas.[5] In several areas, the annual mean was 20 to 80 percent over the annual NAAQS. A high annual concentration is another indicator that an area experiences persistently high PM–10 levels rather than occasional brief exceedances.

Because EPA intends to base its final determinations on whether areas should be reclassified on its review of the SIP's due November 15, 1991, this proposal is limited to those areas that appear most likely, on the basis of ambient air quality information, to have difficulty attaining the PM–10 NAAQS by December 31, 1994. Therefore, EPA is proposing to reclassify the areas listed in Table 1 as serious, with the caveats discussed below. The EPA believes the criteria used to identify the areas in Table 1 area reasonable to use in meeting its obligation under section 188(b)(1)(A). However, the criteria are being used as surrogates for area-specific information that will eventually be provided in the SIP's. States can rebut EPA's presumption that any of the areas proposed for reclassification cannot practicably attain the standards by the attainment date by submitting a SIP that provides for attainment by the end of 1994. In such cases, EPA will not take final action to reclassify the areas. The EPA requests comments on the choice of criteria used to identify the areas that it proposes to reclassify.

Areas EPA Does Not Expect to Reclassify

Based on preliminary information described in more detail below, at this time, EPA does not expect to reclassify the four areas discussed below from Table 1 as serious even though they meet the above criteria. However, in today's notice, EPA is proposing to reclassify these areas, in the event that EPA does not receive a SIP revision for these areas by the time EPA takes final action on this notice which substantiates this preliminary information. Similarly, if EPA receives a SIP revision for these areas by the time EPA takes final action on this notice which indicates that the area cannot practicably attain the PM–10 standards by December 31, 1994, EPA is proposing today to reclassify these areas in the final rulemaking action on this notice.

Oglesby, Illinois—The EPA does not anticipate reclassifying the Oglesby nonattainment area. The area is impacted primarily by a single source of PM–10, a cement manufacturing plant. The State has submitted a dispersion modeling demonstration that tentatively shows emissions from the facility can be controlled with RACT to a level that will prevent future violations of the 24-hour NAAQS.[6]

[4] The design values derived for this report were based on all data produced in 1988–1990. The number of observations used in the look-up table procedure is the combined number of observations produced in 1988, 1989, and 1990. No adjustments were made for periods with missing data or differences in sampling frequency. The design concentrations currently being used for SIP development were generally derived from monitoring data collected in earlier years (i.e., 1986 or 1987) and, therefore, may differ from those listed in Table 1.

[5] The annual mean concentrations in Table 1 are based only on years with complete ambient data sets. A data set requires at least 12 sample days per quarter year to be complete. As noted in the table, many of the areas had 1 or more years of incomplete data.

[6] Proposed PM–10 emission limits for the Portland Cement Manufacturing Plant and associated quarry operations in LaSalle County, Illinois, February 1991.

TABLE 1.—AREAS WITH HIGH PM–10 DESIGN CONCENTRATIONS AND EXPECTED EXCEEDANCES

EPA region	Area of concern*	24-hour design value (μg/m³)	Expected exceedances	Annual mean (μg/m³)	Sources
III	Liberty, Lincoln, Port Vue, and Glassport Boroughs and the City of Clairton, PA	247	11.0	47	Point.
V	Oglesby, IL	311	12.2	55	Point.
VIII	Libby, MT	239	11.9	61#	FD, RWC, PB.
VIII	Utah Co., UT	241	12.7	53#	Point.
IX	Paul Spur, AZ	353	68.0	#	Point, FD
IX	Nogales, AZ	244	10.7	#	International, FD
IX	San Joaquin Val., CA	287	24.1	79#	FD, secondary PM, PB.
IX	Owens Valley, CA	1861	17.4	33#	FD
IX	South Coast Air Basin, CA	252	25.5	84	Secondary PM, FD.
IX	Coachella Val., CA	712	11.6	90#	FD
IX	Imperial Val., CA	676	8.9	78#	FD, International, PB.
IX	Las Vegas, NV	368	6.5	66#	FD
X	Klamath Falls, OR	723	36.3	61	FD, RWC, PB.
X	Spokane, WA	414	7.4	47#	FD, PB, RWC.

FD=Fugitive dust
PB=Prescribed burning
RWC=Residential wood combustion
International-international transport of PM–10
Point=Dominant point source impact
*The full legal descriptions of the nonattainment areas were published in 56 FR 11101, March 15, 1991, and corrections were published in 56 FR 37654 (August 8, 1991).
#=One or more years of incomplete data are available that were not used in calculating the annual mean.

Utah County, Utah—The EPA does not anticipate reclassifying the Utah County nonattainment area because the State has demonstrated that the standards can be attained by December 31, 1994. The State has adopted regulations requiring RACM for area sources and RACT for point sources in the area. The control measures are scheduled to be implemented by December 10, 1993.[7]

Nogales, Arizona—The EPA does not anticipate reclassifying the Nogales nonattainment area based on the results of a preliminary study prepared by the Arizona Department of Environmental Quality in September 1990. The report indicates that most of the PM–10 emissions in the area emanate from Nogales, Sonora, Mexico. The area emission inventory indicates that 94 percent of the PM–10 emissions originate in Mexico. An intensive monitoring study, including time-lapse photography of air flow at the border conducted in 1989, indicated that PM–10 concentrations in Nogales, Arizona, were primarily attributable to sources in Nogales, Sonora. Therefore, the report indicates the State may be able to demonstrate in the SIP due November 15 that, with the application of RACM, Nogales, Arizona, could attain the standards by December 31, 1994, but for PM–10 emissions emanating from Nogales, Sonora.[8]

Imperial Valley, California—The EPA does not anticipate reclassifying the Imperial Valley nonattainment area based on the results of an EPA study conducted in 1989. The study indicated that international transport of PM–10 from Mexicali in Mexico significantly impacted monitoring sites in Calexico, El Centro, and Brawley, California. The report indicates the State may be able to demonstrate in the SIP due November 15 that, with the application or RACM, the Imperial Valley could attain the standards by December 31, 1994, but for PM–10 emissions emanating from Mexicali.[9]

IV. Serious Area SIP Requirements

Additional Sip revisions are required under section 189(b) for the initial nonattainment areas that are reclassified to serious. First, regulations requiring the use of BACM, including "the application of best available control technology to existing stationary sources" [H.R. Rep. No. 490, 101st Cong. 2d Sess. 267 (1990)] must be adopted and submitted to EPA within 18 months after the area is reclassified to serious [section 189(b)(2)]. The BACM and BACT requirements must be implemented within 4 years after the area is reclassified [section 189(b)(1)(B)].

Second, the State must submit a SIP revision within 4 years after reclassification of the area that includes a demonstration that the plan will attain the PM–10 NAAQS by December 31, 2001 [see sections 188(c)(2), 189(b)(1)(A)(i), and 189(b)(2)].[10] Third, section 189(b)(3) provides that "for any Serious Area, the terms 'major source' and 'major stationary source' include any stationary source or group of stationary sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 70 tons per year of PM–10." This provision requires, among other things, smaller new and modified sources (those with the potential to emit 70 or greater rather than 100 or greater tons per year) to obtain section 172(c)(5) construction permits which include requirements to comply with lowest achievable emission rates and to obtain emission offsets [see sections 172(c)(5) and 173].

It is reasonable, in some circumstances, for States preparing SIP's for moderate areas that will be reclassified as serious, to consider the relationship of RACM to BACM and

[7] Utah State Implementation Plan, Section 9 Control Strategy and Compliance Schedule, A. Fine Particulate Matter (PM–10) submitted by Governor Norman H. Bangerter to James J. Scherer, Regional Administrator, U.S. EPA Region VIII, Denver, Colorado, October 9, 1990.

[8] Preliminary investigation of the Causes and Extent of the Nogales, Arizona, PM–10 Problem, Arizona Department of Environmental Quality, September 1990.

[9] Rural Fugitive Dust Analysis: Imperial County, California, Final report, prepared by Mathtech, Inc., under EPA Contract No. 68–D8–0094, Work Assignment No. 29, May 1990.

[10] Alternatively, the State must demonstrate that attainment by December 31, 2001, is impracticable and that the plan provides for attainment by the most expeditious alternative date practicable (but no more than 5 years after the serious area attainment date), and that the section 188(e) requirements for receiving an extension of the attainment date have been satisfied (i.e., the plan includes the most stringent measures that are included in the implementation plan of any State or are achieved in practice in any State and can feasibly be implemented in the area) [see section 189 (b)(1)(A)(ii)].

RACT to BACT for the affected sources. The EPA discussed this relationship in a recent policy memorandum entitled "PM–10 Moderate Area SIP Guidance: Final Staff Work Product" at pages 14–16 (see footnote 1). The EPA anticipates that BACM for area sources, if required, will be additive to or not significantly incompatible with RACM for these sources. Therefore, the moderate area SIP's for the areas which EPA is proposing to reclassify should reflect the application of RACM to appropriate sources. If an area is reclassified in EPA's final action on this rulemaking, then additional regulations which require BACM must be adopted and submitted within 18 months and implemented within 4 years after reclassification.

Likewise, in the case of fugitive dust associated with stationary sources, EPA anticipates that the implementation of BACT will not be significantly incompatible with the implementation of RACT. Therefore, EPA expects that the moderate area SIP's for the areas identified in today's notice will reflect the application of RACT on fugitive dust associated with stationary sources. If an area is reclassified in EPA's final action on this rulemaking, then additional regulations requiring BACT for fugitive dust at stationary sources must be submitted within 18 months and implemented within 4 years after the area is reclassified.

In contrast to BACT for stationary sources of fugitive dust, PM–10 emission control technology determined to represent BACT for processes at stationary sources may be significantly incompatible with the technology that would represent RACT for the same sources. Under such circumstances, it would be unreasonable and, therefore, would not constitute RACT to install controls to meet the requirement for RACT by December 10, 1993, that would subsequently be replaced by BACT within 2 years.[11] Accordingly, EPA does not expect the SIP's for the moderate areas that are finally reclassified as serious to require major changes to the control systems for specific stack and process sources where the State reasonably demonstrates that such changes will be significantly incompatible with the application of BACT. A State's demonstration should include, for example, showing what the State believes RACT and BACT are for the source and why they are significantly incompatible. Rather, within 18 months after the final rulemaking action to reclassify these areas, the States must submit regulations requiring the use and implementation of BACT within 4 years.

[11] Under section 189(a), moderate areas designated nonattainment at enactment must implement RACM (including RACT) by December 10, 1993. Under section 189(b), areas reclassified as serious must implement BACM (including BACT within 4 years after reclassification. If EPA takes final action on December 31, 1991, these areas will be required to implement BACT by December 31, 1995, approximately 2 years after the December 10, 1993 implementation deadline for RACT.

V. Final Action

In addition to the criteria discussed in this notice, EPA's final decision to reclassify the areas identified in today's notice as serious areas will rely on the moderate area SIP, due November 15, 1991, and on comments received in response to this notice of proposed rulemaking. The final decision will be based primarily on the SIP attainment demonstration showing whether or not the States can implement sufficient RACM/RACT by December 10, 1993, to bring about attainment of the standards by December 31, 1994. Any areas that EPA determines cannot practicably attain will be reclassified except for those areas that could attain but for PM–10 emissions emanating from outside the United States. Areas that could attain but for significant contributions of PM–10 from nonanthropogenic sources to PM–10 NAAQS violations in the area may be reclassified as serious areas. Subsequently, the attainment date or various requirements may be waived for these areas if EPA determines that anthropogenic sources do not contribute significantly to violations of the PM–10 NAAQS [see section 188(f)]

The EPA will also review the technical information submitted with the SIP's for the four areas meeting the air quality criteria identified by EPA but which EPA does not expect to reclassify. If EPA determines, based on new information contained in those SIP's, that any of these areas cannot practicably attain the standards by the end of 1994, even after discounting emissions emanating from outside the United States, or the State fails to submit an adequate demonstration substantiating the preliminary information identified earlier, EPA will take final action on this rulemaking proposal to reclassify such areas as serious.

VI. Waivers for Certain Areas

Some of the areas EPA is proposing to reclassify as serious have very arid climates and are impacted by nonanthropogenic sources of PM–10 as well as anthropogenic sources. Section 188(f) of the Act authorizes EPA to "on a case-by-case basis, waive any requirement applicable to any Serious Area [under subpart 4] where the Administrator determines that anthropogenic sources of PM–10 do not contribute significantly to the violation of the PM–10 standard in the area." The legislative history suggests that Congress contemplated a narrrow definition of what may qualify as "nonanthropogenic" and would limit it to include activities where the human role in the causation of the pollution is highly attenuated [see generally, H.R. Rep. No. 490, 101st Congress. 2d Sess. 265 (1990)]. As one example of a type of source Congress considered to be anthropogenic, the House Report states as follows: "The term 'anthropogenic sources' is intended to include activities that are anthropogenic in origin. An example of such sources is the dry lake beds at Owens and Mono Lakes in California, which give rise to dust storms that are a result of the diversion of water that would otherwise flow to such lakes and should be considered anthropogenic sources" (H.R. Rep. No. 490 at 265).

The EPA will rely primarily on information in the SIP's submitted in November 1991 to determine whether anthropogenci sources contribute significantly to violations in each of the above areas. The emissions inventories and PM–10 filter analyses (i.e., chemical mass balance analysis) for the areas will be the primary sources of information relied upon. If EPA determines that anthropogenic sources do not contribute significantly in a particular area, EPA will decide whether any or all requirements for BACM/BACT should be waived for the area.

Section 188(f) also grants EPA the authority to "waive a specific date for attainment of the standard when the Administrator determines that nonanthropogenic sources of PM–10 contribute significantly to the violation of the PM–10 standard in the area." The legislative history suggests that "[t]he attainment date may only be waived for areas that have fully implemented their plan requirements" (H.R. Rep. No. 490 at 265).

Several questions must be answered before EPA can establish a policy for granting the waivers authorized under section 188(f). For example, EPA must determine:

1. What sources will be considered, "nonanthropogenic."

2. When nonanthropogenic sources contribute "significantly" to violations in an area.

3. When anthropogenic sources do *not* contribute significantly to violations in an area.

4. What requirements, if any, applicable to serious areas should be waived.

The EPA is specifically soliciting public comment on appropriate answers to these questions. The EPA will consider any comments received before the close of the comment period on today's proposal when developing its policy for implementing the waiver provision authorized under section 188(f).

VII. International Border Areas

Section 818 of the 1990 Clean Act Amendments adds a new action 179B to subpart 1 of part D of Title I of the Act. Section 179B applies to areas that could attain the relevant NAAQS by the attainment date but for emissions emanating from outside the United States. For PM–10 nonattainment areas, section 179B provides that EPA can approve the moderate area SIP if the State establishes that the SIP would be adequate to attain and maintain the PM–10 NAAQS by the attainment date but for emissions from outside the United States, and that the area is not to be subject to the provisions of section 188(b)(2). Section 188(b)(2) provides that any moderate PM–10 nonattainment area that is not in attainment after the applicable attainment date shall be reclassified by operation of law as a serious area. Therefore, Congress does not want areas that could attain but for emissions emanating from outside the United States to be automatically reclassified as serious after failing to attain by the applicable date. In the same spirit, EPA does not believe Congress intended for areas that the States demonstrate could attain the standards but for emissions emanating from outside the United States to be reclassified before the attainment date under section 188(b)(1).[12]

Consequently, EPA does not anticipate reclassifying Nogales, Arizona, and Imperial Valley, California, as serious areas at this time based on preliminary information submitted by the States. The preliminary information indicates these areas could attain the NAAQS but for emissions from Mexico. However, if the technical information submitted with the SIP in November for any of these areas does not satisfactorily confirm the preliminary analysis relied on in today's proposal, EPA will proceed to reclassify that area as a serious area in its final action on this rulemaking.

VIII. Request for Comments.

The EPA requests comments on all aspects of its proposal to reclassify the above areas as serious nonattainment areas. For example, EPA requests comments on its choice of criteria for identifying areas it proposes to reclassify as serious including technical information to substantiate or refute its basis for today's proposed action. The comment period which closes December 23, 1991, will additionally allow EPA to consider the SIP revisions required to be submitted for these areas by November 15, 1991. The EPA is also investigating the development of criteria and policy for granting waivers for certain areas under section 188(f). Several questions were raised in section VI of this notice that must be answered in developing the waiver policy. Comments are requested on those questions as well as the scope of such waivers.

IX. Other Regulatory Requirements

A. Executive Orders

Under Executive Order 12291, EPA has determined that this proposed action is not "major" because reclassification of the areas would not have an annual effect on the economy of at least $100 million, would not cause a major increase in prices, and would not have a significant adverse effect on competition or the ability of United States enterprises to compete with foreign enterprises. This proposal was submitted to the Office of Management and Budget (OMB) as required by Executive Order (E.O.) 12291. Any written comments from OMB and any written EPA responses to those comments are included in the docket. This action does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980 (U.S.C. 3501 *et seq.*). A Federalism assessment under E.O. 12612 is not required for this action since reclassification of moderate areas that cannot attain the NAAQS by the statutory attainment date as serious areas is mandated by section 188(b) of the Act.

B. Regulatory Flexibility Act

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities (see 46 FR 8709). Because reclassifications under section 188(b) constitute a refinement of existing designations, such actions are also not expected to have significant impacts on small entities.

List of Subjects in 40 CFR Part 81

Air pollution, Particulate matter, Waivers, International border areas.

Authority: Sections 188(b) and 301(a) of the Clean Air Act as amended.

Dated: November 15, 1991.

William K. Reilly,

Administrator.

[FR Doc. 91–28064 Filed 11–20–91; 8:45 am]

BILLING CODE 6560–50–M

[12] As noted, section 179B(d) states that areas demonstrating attainment of the standards but for emissions emanating from outside the United States shall not be subject to section 188(b)(2) (reclassification for failure to attain). By analogy to this provision and applying canons of statutory construction, EPA will not reclassify before the applicable attainment date areas which can demonstrate attainment of the standards but for emissions emanating from outside the United States [see section 188(b)(1)]. First, section 179B evinces a general congressional intent not to penalize areas where emissions emanating from outside the country are the but-for cause of the PM–10 attainment problems. Further, if EPA were to reclassify such areas before the applicable attainment date, EPA, in effect, would be reading section 179B(d) out of the statute. Specifically, if EPA proceeded to reclassify before the applicable attainment date those areas qualifying for treatment under section 179B, an area would never be subject to the provision in section 179B(d) which prohibits EPA from reclassifying such areas after the applicable attainment date. Canons of statutory construction counsel against interpreting the law such that language is rendered mere surplusage. Finally, note that section 179B(d) contains a clearly erroneous reference to carbon monoxide instead of PM–10, and that this section contains other clear errors [see, e.g., section 179B(c) reference to section 186(b)(9), which does not exist].

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Denial of Petition for Rulemaking

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

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice denies a petition by Dr. Carl C. Clark of the Safety Systems Company to amend the Head Injury Criterion limit of Standard No. 208, Occupant Crash Protection. The petitioner sought to reduce the Head Injury Criterion limit from 1000 to 750. After careful review, NHTSA has determined that the petition failed to provide sufficient justification to change the current Head Injury Criterion limit. The petition did not present information calling into question the agency's belief that the current Head Injury Criterion limit of 1000 is the most appropriate and practicable level for minimizing the risk

of head injuries, nor did it present any information purporting to demonstrate that the requested HIC limit of 750 would be a more appropriate and practicable limit. Without this supporting information, the petition's general statement that a lower HIC limit would result in a lower risk of head injury does not form an adequate basis for amending a safety standard.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley H. Backaitis, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590. Telephone (202) 366–4912.

SUPPLEMENTARY INFORMATION:

General Information

This notice denies a petition for rulemaking to amend Federal Motor Vehicle Safety Standard No. 208, Occupant Crash Protection (49 CFR 571.208) from Dr. Carl C. Clark of the Safety Systems Company. Standard No. 208 specifies performance requirements, based in part on forces and accelerations measured in test crashes, for occupant restraint systems in motor vehicles. The purpose of Standard No. 208 is to reduce the number of fatalities and the severity of injuries in motor vehicle crashes.

The use of a Head Injury Criterion [HIC] limit of 1000 for the protection of occupants was first proposed and adopted by the agency in 1972 (37 FR 5507). The HIC is calculated based on readings from instrumented test dummies in tests that simulate real world crashes. The agency concluded, based on available research, that prohibiting the HIC from exceeding 1000 would prevent or reduce injuries in actual crashes.

NHTSA has previously addressed requests to raise or lower the HIC limit (including a petition from Common Market Automobile Constructors to increase the HIC limit to 1500; 50 FR 14626, April 25, 1985), but found in each case that the HIC limit of 1000 is an effective and practicable means of limiting the risk of head injuries in automobile crashes, based on existing technology, and meets the need for motor vehicle safety.

Clark Petition

On April 29, 1991, Dr. Carl C. Clark petitioned the agency to reduce the maximum allowable HIC in Standard No. 208 from 1000 to 750. Dr. Clark did not submit any technical material; his petition is based primarily on the statement that the lower the HIC an occupant experiences in a crash, the lower the risk of head injury. The petition further adds that reducing the maximum allowable HIC to 750 would reduce the societal costs of motor vehicle crashes and suggests that the automobile manufacturing industry currently can provide HIC results of less than 750. However, it does not present any accident or biomechanical data, to suggest that the current HIC level of 1000 exposes persons to an unreasonable risk of head injuries or any factual data indicating the risks associated with a 750 HIC limit. The basis of the petition thus suggests that the HIC limit should be reduced to 750 merely because this figure is lower than the current level of 1000, and is thus directionally correct.

Although the agency agrees with Dr. Clark's general assertion that a lower HIC limit would result in a lower risk of head injury, this result alone does not form an adequate basis for amending Standard No. 208. NHTSA promulgates Federal Motor Vehicle Safety Standards under the authority granted by the National Traffic and Motor Vehicle Safety Act of 1966 ("Safety Act," 15 U.S.C. 1381 *et seq.*). Among other requirements, the Safety Act obliges NHTSA to promulgate safety standards that are "practicable" and "meet the need for motor vehicle safety." Accordingly, any revision to the HIC limit would require NHTSA to conclude, on the basis of the available scientific and biomechanical information, that the current 1000 HIC limit no longer adequately meets the need for motor vehicle safety, and that the revised level would more effectively meet the need for safety and could practicably be achieved by motor vehicle manufacturers.

Thus, the Safety Act requires that NHTSA have more than a belief that it is "directionally correct" when proposing to amend a standard which the agency previously determined was appropriate. Because the petition fails to present any factual data concerning the continuing appropriateness of the 1000 HIC limit, does not present any information showing the greater effectiveness of a 750 HIC limit, and does not establish the alleged practicability of a 750 HIC value, the agency concludes that the selection of 750 does not meet the need for motor vehicle safety as required by the Act. This is especially true when the available data indicate that the main benefits, in terms of lowered risk of head injury, to be derived from reducing HIC occur when the HIC is reduced from levels above 1000, rather than from 1000 to some lower figure.

Despite the petition's failure to substantiate its claim that the HIC limit should be reduced, the agency does agree with the petition's underlying premise that, historically, the numbers and levels of head injuries in motor vehicle crashes have been high. Those head injuries, however, were incurred primarily by unrestrained occupants. NHTSA has taken action to reduce those levels of head injuries, including issuing standards requiring automatic occupant protection in passenger cars and light trucks and aiding the States in increasing safety belt use. The agency's research indicates that this action will reduce the number and severity of head injuries, particularly those resulting from frontal impacts.

Conclusion

Any revision of the HIC limit should be based on solid scientific evidence and sound biomechanical research data demonstrating that a lower limit would be more effective. Further, the proposed reduction must be shown to be practicable. Dr. Clark's petition presents no facts or arguments to demonstrate that the HIC limit of 1000 does not adequately meet the need for motor vehicle safety. The petition also fails to present any information supporting the choice of a 750 HIC limit to replace the current level. Thus, the petition fails to provide an adequate basis for revising the HIC limit. NHTSA has already issued standards which the agency anticipates will further reduce the incidence of head injuries, as will increased safety belt usage. The agency is also contemplating, as announced in its Priority Plan, future rulemaking actions specifically designed to reduce the severity and likelihood of head injuries, especially those related to impacts with upper interior components.

Thus, after careful review, NHTSA's conclusion is that the HIC limit of 1000 remains an effective and workable means of practicably minimizing the risk of head injury in automobile crashes. Based on the foregoing, NHTSA denies Dr. Clark's petition for proposed rulemaking to reduce the HIC limit to 750.

Issued on November 15, 1991.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 91–27984 Filed 11–20–91; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Annual Description of Progress on Listing Actions and Findings on Recycled Petitions

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Annual notice of listing progress and petition findings.

SUMMARY: The Service describes its progress in revising the lists of Endangered and Threatened Wildlife and Plants during the period from October 1, 1989, to September 30, 1990. The Service also announces its findings on recycled petitions.

DATES: The description of the Service's progress in revising the lists is current as of October 1, 1990.

ADDRESSES: Information, comments, or questions may be submitted to the Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/358-2171 or FTS 921-2171).

FOR FURTHER INFORMATION CONTACT: Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/358-2171 or FTS 921-2171).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3) of the Endangered Species Act (Act), as amended in 1982 (16 U.S.C. 1531 *et seq.*), sets out required procedures for responding to petitions under the Act (*i.e.*, petitions to revise the lists of Endangered and Threatened Wildlife and Plants or to revise critical habitat for listed species). The revised procedures required the Service to treat any petitions that were pending on the date of enactment of the Amendments as if they were filed again on that date (October 13, 1982). Those petitions, and all subsequent petitions determined to present substantial scientific or commercial information supporting the requested actions, require findings on their merits within 12 months after receipt.

The 1982 Amendments further stipulated that petitioned actions may be determined to be warranted but precluded by other actions to revise the lists if it is also determined that the Service is making simultaneous expeditious progress in revising the lists. Petitions for which a 12-month finding of "warranted but precluded" is made are treated as if they were resubmitted on the date of such an administrative finding (with substantial information that the petitioned action may be warranted). They therefore require a new finding within a year after the most recent "warranted but precluded" finding.

This notice describes the Service's annual progress in revising the lists during fiscal year 1990. It also reports administrative findings on recycled petitions that became due during that period.

A table describing the Service's 12-month findings for recycled animal petitions was published December 29, 1988 (53 FR 52746). The findings for fiscal year 1989 were published April 25, 1990 (55 FR 17475). A current revision of the comprehensive plant Notice of Review was published in the **Federal Register** on February 21, 1990 (55 FR 6184).

Progress in Revision of the Lists

The Service's progress in revising the lists during fiscal year 1990 is described below. The described activities precluded immediate action on other petitioned actions determined during fiscal year 1990 to be "warranted but precluded," including the majority of plant species identified in the Smithsonian plant listing petitions of 1975 and 1978.

The Service's progress in listing and delisting qualified species during fiscal year 1990 is represented by the publication in the **Federal Register** of emergency listing action for one species, final listing actions for 50 species, final critical habitat designation for one species, and proposed listing actions for 108 species. Three species proposed for listing as threatened due to similarity of appearance are not included in the counts above or in Table 1. Table 1 presents the number of species affected by each other type of listing action published during this period.

TABLE 1.—SUMMARY OF LISTING ACTIONS FROM OCTOBER 1, 1989, TO SEPTEMBER 30, 1990.

Type of action	Number of species affected
Emergency endangered status	1
Final endangered status	28
Final threatened status	18
Final reclassification from threatened to endangered	2
Final critical habitat designation	1
Final delisting	1
Proposed endangered status	93
Proposed threatened status	13
Proposed reclassification from endangered to threatened	1
Proposed delisting	1

The Service intends to increase listing efficiency in the future by emphasizing ecosystem and multi-species listing approaches wherever possible.

Petition Findings

Section 4(b)(3)(B) of the Act requires that the Service make one of the following 12-month findings on each petition presenting substantial information: (i) the petitioned action is not warranted; (ii) the petitioned action is warranted and will be proposed promptly; or (iii) the petitioned action is warranted but precluded by other efforts to revise the lists, and expeditious progress is being made in other listing actions. Petitioned actions found to be warranted are the subjects of proposed rules that are published promptly in the Federal Register.

In 1973, the Act directed the Secretary of the Smithsonian Institution to prepare a report on endangered and threatened plant species, which was later published as House Document No. 94-51. The Service's first Notice of Review for plants, published on July 1, 1975 (40 FR 27823), indicated acceptance of the original Smithsonian recommendations as a listing petition under the terms of the Act. A revision of the Smithsonian's report was published in 1978 as a book: E. S. Ayensu and R. A. DeFilipps, *Endangered and Threatened Plants of the United States*, Smithsonian Institution and World Wildlife Fund, Washington, D.C. Because this revision indicated some additional taxa as vulnerable, and recommended that the Service officially recognize their status as endangered or threatened, it was also accepted as a listing petition. Because of the large number of plants included in the two Smithsonian plant petitions (in excess of 3,000 species), findings on the plants are made by status categories as published in the most recent plant Notice of Review on February 21, 1990 (55 FR 6184).

The plant petition findings for fiscal year 1990 generally repeated the findings made in October 1989 and announced in the **Federal Register** on April 25, 1990 (55 FR 17475). Those plant species proposed for listing as threatened or endangered during fiscal year 1990 were determined to be "warranted" for listing as reported in the proposed rules. The Service proposed 76 plant species for listing in that period. Of those 76 species, 57 were included in the 1978 Smithsonian plant petition. The Service has determined that listing is "not warranted" for the petitioned species designated in Category 3 of the plant Notice of Review published February 21, 1990 (55 FR 6184). Determinations of "warranted but precluded" by other actions to revise the

lists were made for petitioned species in Categories 1 and 2 of that notice.

As noted in the last plant Notice of Review (February 21, 1990, 55 FR 6184), changes in plant taxonomy described in the *Manual of the Flowering Plants of Hawaii* (University of Hawaii Press, Honolulu, 1990, 1853 pp.) have been adopted by the Service and incorporated into the list of candidate plant species. By incorporating these taxonomic changes, which were based upon the best scientific information available, the number of Category 1 plant species within Hawaii decreased to 186.

The Service is emphasizing the development and publication of proposed rules to list the Category 1 plant candidates in Hawaii within a period of 3 years. To accomplish this goal, the Service is stressing the use of multi-species proposals—based upon common habitat types and common geographic location—to efficiently apply its limited staff and budgetary resources. In fiscal year 1990 the Service published six such multi-species proposed rules for Hawaiian plants (54 FR 40447, 55 FR 31860, 38236, 38242, 39301, and 39664). A total of 52 Hawaiian plant species were proposed for listing during the year, of which 40 represented "warranted" petition findings for species included in the Smithsonian plant petition of 1978.

Because it was not included in either of the two Smithsonian plant petitions, a petition received October 15, 1985, from Mr. Paul R. Neal to list the Pinos Altos fame flower (*Talinum humile*) was also determined to be "warranted but precluded." This plant was added to Category 2 of the plant Notice of Review.

Recycled animal findings for fiscal year 1990 addressed the petitions indicated to be "warranted but precluded" in Table 1 of the FY 1988 Expeditious Progress Report, published December 29, 1988 (53 FR 52746). The 1990 findings were unchanged except as noted below:

Six animal petition findings of "warranted" were made during fiscal year 1990. A determination was approved in November 1989 to propose the white-necked crow for listing. The finding was published in a proposed rule in the **Federal Register** on December 27, 1989, (54 FR 53132). A qualified determination of "warranted" was made in February 1990 on a petition to reclassify the African elephant to endangered. This finding was announced in the **Federal Register** on April 10, 1990, (55 FR 13299). A determination of "warranted" on a petition to list the Cahaba shiner (*Notropis cahabae*) was made in March 1990 and announced in a proposed rule on March 19, 1990, (55 FR 10083). Emergency listing of the golden-cheeked warbler on May 4, 1990, (55 FR 18844) followed a "warranted" petition determination made in April 1990. May 1990 petition determinations of "warranted" were announced in proposed rules to list the razorback sucker (*Xyrauchen texanus*) on May 22, 1990, (55 FR 21154) and the Louisiana black bear (*Ursus americanus luteolus*) on June 21, 1990, (55 FR 25341).

The following petitions found to be "warranted but precluded" in fiscal year 1989 were again determined to be "warranted but precluded":

(1) 10 New Mexico mollusk species—petitioned by Mr. Harold F. Olson on November 22, 1985.

(2) Mariana fruit bat—petitioned by Dr. Thomas O. Lemke on March 4, 1986.

The Sonoran Desert population of the desert tortoise will be addressed in a separate administrative finding.

No findings of "not warranted" were made in 1990 on recycled petitions. Table 2 presents an updated list of petitions found in 1990 to be "warranted but precluded."

TABLE 2.—12-MONTH FINDINGS ON PENDING ANIMAL PETITIONS.

Description	Petitioner	Date Received	Warranted?
5 species of sponges (2 others not warranted)	Mr. Ronald M. Cowden	June 17, 1974	Yes
34 species of cave crustaceans (2 species listed, 14 others not warranted).	National Speleological Society	September 9, 1974	Yes
6 species of cave amphipods (1 other not warranted).	Dr. John Holsinger	July 12, 1974	Yes
Bonneville cutthroat trout	Desert Fishes Council	October 23, 1979	Yes
9 U.S. and 60 foreign species of birds (4 others listed, 6 not warranted).	International Council for Bird Preservation	November 24,1980	Yes
Barbara Anne's tiger beetle and Guadaloupe Mountains tiger beetle.	W.D. Sumlin, III and Christopher D. Nagano	July 24, 1984	Yes
Spiny River Snail	American Malacological Union	August 13, 1984	Yes
3 Puerto Rican waterbirds	Ms. Hilda Diaz-Soltero	January 3, 1985	Yes
Henne's eucosman moth	Mr. Bruce S. Mannheim, Jr.	May 21, 1985	Yes
10 New Mexico mollusc species (1 other not warranted).	Mr. Harold F. Olson	November 22, 1985	Yes
Lesser white-cheeked pintail	Mr. Sean Furniss	November 22, 1985	Yes
Mariana fruit bat	Dr. Thomas O. Lemke	March 4, 1986	Yes
Appalachian Bewick's wren	Mr. Rodney Bartgis and Mr. D. Daniel Boone	August 13, 1986	Yes
Sherman's fox squirrel	Mr. Reed F. Noss	November 27, 1987	Yes

* but precluded by other actions to revise the List of Endangered and Threatened Wildlife

In making petition findings of "warranted but precluded" the Service has avoided discriminating among its listing candidates (species designated as either category 1 or category 2 in published plant and animal notices of review) on the basis of their petition status. In contrast, the Service has determined as "not substantial" or as "not warranted" listing petitions for species found to be eligible for category 3 of the notices or not eligible for candidacy at all.

Service policy for allocating limited listing resources among category 1 candidates is to follow the listing priority guidelines published September 21, 1983 (48 FR 43098), using priorities based on the magnitude and immediacy of identified threats (weighted slightly for genetic uniqueness as reflected in the species' taxonomy). It is important to note that at any given time many species may qualify as category 1

candidates because of recent status survey results often markedly different from information previously known or published in petition findings or notices. Such species are frequently proposed for listing before a periodic notice of review can announce their category change. The proposed rule addresses any new data upon which the category change is based.

It is Service policy to use the listing priority guideline criteria to the extent that available knowledge will permit in allocating limited resources among category 2 candidate species for status survey. In this process, evidence of significant threats to survival confers a higher priority for survey funding than the mere fact of being a subject of a listing petition. For required petition determinations the policy is also to use the best scientific and commercial information available when the finding is due.

The general plant and animal notices of review are important tools for gathering data on species that are candidates for listing and for informing interested parties of the Service's general views on the status of present and past candidate species. A current revision of the comprehensive plant notice was published February 21, 1990 (55 FR 6184). The most recent previous general Notice of Review for plants was published on September 27, 1985 (50 FR 39526). The most recent comprehensive Notice of Review for animals was published on January 6, 1989 (54 FR 554), and is being revised for republication in 1991. The plant and animal notices of review will be republished on a biennial schedule.

Author

This notice was prepared by Dr. George Drewry of the Division of Endangered Species.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

List of Subjects in 50 CFR Part 17

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

Dated: September 19, 1991.

Bruce Blanchard

Acting Director, U.S. Fish and Wildlife Service

[FR Doc. 91-28054 Filed 11-20-91; 8:45 am]

BILLING CODE 4310-55-F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 672

[Docket No. 911176-1276]

Foreign Fishing; Groundfish of the Gulf of Alaska

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

ACTION: Notice of 1992 proposed initial specifications of groundfish and associated management measures; request for comments.

SUMMARY: NMFS proposes initial harvest specifications of groundfish and associated management measures in the Gulf of Alaska for the 1992 fishing year. This action is necessary to inform the public about harvest specifications and management measures and to solicit public comments. The measures are intended to carry out management objectives contained in the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP).

DATE: Comments are invited until December 18, 1991.

ADDRESSES: Comments should be sent to Dale R. Evans, Chief, Fisheries Management Division, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668. The preliminary Stock Assessment and Fishery Evaluation Report, dated September 1991, is available from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, Alaska 99510.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg, Fishery Management Biologist, NMFS, 907-586-7230.

SUPPLEMENTARY INFORMATION:

Background

The domestic and foreign groundfish fisheries in the Exclusive Economic Zone (EEZ) of the Gulf of Alaska (GOA) are managed by the Secretary of Commerce (Secretary) according to the FMP. The FMP was prepared by the north Pacific Fishery Management Council (Council) under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The FMP is implemented by regulations for the foreign fishery at 50 CFR part 611 and for the U.S. fishery at 50 CFR part 672. General regulations that also pertain to the U.S. fishery are implemented at 50 CFR part 620.

This notice is published under authority of those regulations and proposes for the 1992 fishing year: (1) Specifications of total allowable catch (TAC) for each groundfish target species category in the Gulf of Alaska and apportionments thereof among domestic annual processing (DAP), joint venture processing (JVP), total allowable level of foreign fishing (TALFF), and reserves; (2) apportionments of reserves to DAP; (3) assignments of the sablefish TAC to authorized fishing gear users; (4) quarterly apportionments of the pollock TAC; (5) prohibited species catch (PSC) limits relevant to fully utilized groundfish species; (6) Pacific halibut PSC limits; and (7) seasonal allocations of the Pacific halibut PSC limits. This action also announces interim groundfish harvest specifications that will become effective January 1, 1992, until replaced by final specifications. Each of these measures is discussed as follows:

1. Establishment of TACs and Apportionments Thereof Among DAP, JVP, TALFF, and Reserves

Regulations implementing the FMP provide the following process for implementing groundfish specifications. Under § 672.20(c)(1), NMFS, in consultation with the Council, publishes a notice in the **Federal Register** proposing specifications of initial TAC and apportionments of TAC among DAP, JVP, TALFF and reserves for each target species and the "other species" category. Under § 672.20(a)(2)(ii), the sum of the TACs for all species must fall within the combined optimum yield (OY) range established for these species of 116,000-800,000 metric tons (mt). According to § 620.20(c)(1), comments are invited from the public December 18, 1991. After consultation with the Council, NMFS publishes a final notice in the **Federal Register** implementing the final TACs and apportionments for the new fishing year.

TACs are apportioned initially among DAP, JVP, TALFF, and reserves for each species under § 611.92(c)(1) and § 672.20(a)(2). DAP amounts are intended for harvest by U.S. fishermen for delivery and sale to U.S. processors. JVP amounts are intended for joint ventures in which U.S. fishermen deliver their catches to foreign processors at sea. TALFF amounts are intended for harvest by foreign fishermen.

Under § 620.20(a)(2)(i), the reserves for the GOA are 20 percent of the sum of the TACs for pollock, Pacific cod, flounder (flatfish species), and "other species." Under 50 CFR 672.20 (a)(2)(ii) and (d)(1)(i), if necessary, these reserve amounts may be set aside for possible reapportionment to DAP and/or to JVP if the initial apportionments prove

inadequate. Reserves that are not reapportioned to DAP or JVP may be reapportioned to TALFF. Other groundfish target species, including sablefish, "other rockfish," pelagic shelf rockfish, demersal shelf rockfish, Pacific ocean perch, and thornyhead rockfish are fully utilized by DAP. All reserves are proposed to be apportioned to pollock, Pacific cod, and the flatfish target species categories, effective at the beginning of the 1992 fishing year.

The Council met September 23–29, 1991, to review the best available scientific information concerning groundfish stocks. Any changes in information concerning stock abundance and trends relative to the 1991 fishing year resulted from new analyses of existing data. A preliminary Stock Assessment and Fishery Evaluation (SAFE) report, dated September 1991, prepared and presented to the Council by the GOA Plan Team, summarizes the best available information. At this time, this information is largely unchanged from that used to manage the groundfish fisheries in the Gulf of Alaska during 1991.

The Council considered information in the SAFE Report, recommendations from its Scientific and Statistical Committee (SSC) and its Advisory Panel (AP), as well as public testimony. The Council then adopted the acceptable biological catches (ABCs) as recommended by the SSC and the TACs as recommended by the AP. Each of these specifications is shown in Table 1.

TABLE 1.—Preliminary ABCs, Initial TACs, One-fourth TACs and DAPs of Groundfish (metric tons) for the Western/Central (W/C), Western (W), Central (C), and Eastern (E) Regulatory Areas and in the West Yakutat (WYK), Southeast Outside/East Yakutat (SEO/EYK), Gulf-Wide (GW), and Southeast Outside (SEO) Districts of the Gulf of Alaska. Amounts Specified as; Joint Venture Processing (JVP) and Total Allow Level of Foreign Fishing (TALFF) Are Proposed To Be Zero and Are Not Shown in This Table. Reserves Are Proposed To Be Apportioned to DAP.

Species	Area [1]	ABC	TAC=DAP	¼ TAC=DAP
Pollock	W/C	93,000	93,000	23,250
	E	3,400	3,400	850
Total		96,400	96,400	24,100
Pacific cod	W	22,400	22,400	5,600
	C	42,100	41,100	10,525
	E	3,400	2,900	725
Total		67,900	67,400	16,850
Flatfish [2] (deep water)	W	3,287	2,000	500
	C	38,219	35,000	8,750
	E	4,913	3,000	750
Total		46,419	40,000	10,000
Flatfish [3] (shallow water)	W	27,481	3,000	750
	C	21,262	7,000	1,750
	E	1,741	1,741	435
Total		50,484	11,741	2,935
Arrowtooth flounder	W	38,881	5,000	1,250
	C	253,325	10,000	2,500
	E	11,683	5,000	1,250
Total		303,889	20,000	5,000
Flathead sole	W	12,584	2,000	500
	C	31,988	5,000	1,250
	E	3,710	3,000	750
Total		48,282	10,000	2,500
Sablefish	W	2,925	2,925	732
	C	10,575	10,575	2,644
	WYK	4,050	4,050	1,012
	SEO/EYK	4,950	4,950	1,237
Total		22,500	22,500	5,6245
Other rockfish [4, 5]	W	1,212	1,212	303
	C	5,454	5,454	1,364
	E	3,434	3,434	858
Total		10,100	10,100	2,525
Pelagic [6] shelf rockfish	W	1,500	800	200
	C	5,500	3,100	775
	E	1,600	900	225
Total		8,600	4,800	1,200
Pacific ocean perch [7]	W	1,625	1,625	406
	C	1,800	1,800	450
	E	2,375	2,375	594
Total		5,800	5,800	1,450
Short raker/rougheye [8]	W	100	100	25
	C	1,320	1,320	330
	E	580	580	145
Total		2,000	2,000	500
Demersal shelf rockfish [9]	SEO	434	425	106
Thornyhead rockfish	GW	1,798	1,398	350
Other species [10]	GW	N/A	14,628	3,657

TABLE 1.—Preliminary ABCs, Initial TACs, One-fourth TACs and DAPs of Groundfish (metric tons) for the Western/Central (W/C), Western (W), Central (C), and Eastern (E) Regulatory Areas and in the West Yakutat (WYK), Southeast Outside/East Yakutat (SEO/EYK), Gulf-Wide (GW), and Southeast Outside (SEO) Districts of the Gulf of Alaska. Amounts Specified as; Joint Venture Processing (JVP) and Total Allow Level of Foreign Fishing (TALFF) Are Proposed To Be Zero and Are Not Shown in This Table. Reserves Are Proposed To Be Apportioned to DAP.—Continued

Species	Area [1]	ABC	TAC=DAP	¼ TAC=DAP
Total		664,606	307,192	76,798

Footnotes:
[1] See figure 1 of §672.20 for description of regulatory areas/districts.
[2] The category "deep water flatfish" means rex sole, Dover sole, and Greenland turbot.
[3] The category "shallow water flatfish" means flatfish not including deep water flatfish, arrowtooth flounder, or flathead sole.
[5] The category "other rockfish" in the Western and Central Regulatory Areas and in the West Yakutat and East Yakutat Districts include slope rockfish and demersal shelf rockfish. The category "other rockfish" in the Southeast Outside District includes slope rockfish.
[4] The category slope rockfish includes 17 species: *SEbastes polyspinis* (Northern rockfish), *S. zacentrus* (sharpchin), *S. aurora* (aurora), *S. melanostomus* (blackgill), *S. goodei* (chilipepper), *S. crameri* (darkblotch), (pygmy), *S. jordani* (shortbelly), *S. diploproa* (splitnose), *S. saxicola* (stripetail), *S. miniatus* (vermilion), *S. reedi* (yellowmouth), *S. pauchispinis* (bocaccio), *S. brevispinis* (silvergrey), and *S. proriger* (redstripe).
[6] The category pelagic shelf rockfish includes 5 species: *Sebastes melanops* (black) *S. mystinus*, (blue) *S. ciliatus* (dusky), *S. entomelas* (widow), and *S. flavidus* (yellowtail).
[7] The category Pacific ocean perch means *Sebastes alutus*.
[8] The category shortraker/rougheye rockfish includes 2 species: *Sebastes borealis* (shortraker) and *S. aleutianus* (rougheye).
[9] The category demersal shelf rockfish includes 8 species: *Sebastes nebulosus* (China), *S. caurinus* (copper), *S. maliger* (quillback), *S. helvomaculatus* (rosethorn), *S. nigrocinctus* (tiger), *S. ruberrimis* (yelloweye), *S. pinningera* (canary), and *S. babcocki* (red banded).
[10] The category "other species" includes Atka mackerel, scuplins, sharks, skates, eulachon, smelts, capelin, squid, and octopus. The TAC is equal to 5 percent of the TACS of the target species.

The sum of the TACs proposed by the Council is 307,192 mt which falls within the OY range specified by the FMP. In most cases, the proposed TAC specification for a target species category equals the final 1991 TAC specification, even though the proposed 1992 ABC might be higher than the final 1991 TAC specification. Examples of these target species categories as shown in Table 1 are: Shallow water flatfish, flathead sole, arrowtooth flounder, sablefish, Pacific ocean perch, shortraker/rougheye rockfish, "other" rockfish, pelagic shelf rockfish, and thornyhead rockfish. The proposed TAC for deep water flatfish is increased from 10,000 mt to 35,000 mt in response to an anticipated increase in fishing effort for deep water flatfish in 1992. Analyses of stock abundance indicate that some species, e.g. pollock and Pacific cod, have declined. TACs for pollock and Pacific cod are proposed that are equal to the proposed 1992 ABCs for these species.

The Council, after adopting the TACs, then proposed the 1991 apportionments of the TACs for each species category among DAP, JVP, TALFF, and reserve. Existing harvesting and processing capacity of the U.S. industry is capable of utilizing the entire 1992 TAC specification of GOA groundfish. TALFF and JVP specifications have not been specified in the GOA since 1988 and 1989, respectively. The Council recommended that DAP equal TAC for each species category, which would eliminate TALFF and JVP for the 1992 fishing year.

NMFS has reviewed the Council's recommendations for TAC specifications and apportionments and hereby proposes these specifications under § 672.20(c)(1). NMFS recognizes that public comment and new information may be forthcoming that could cause the Council to change its recommendations at its December 1991 meeting. A draft environmental assessment of this action will be available to the public at the Council meeting. NMFS also notes that the Council has recommended that the groundfish fishing seasons for vessels using trawl gear be delayed until January 20, 1992, for purposes of minimizing bycatches of chinook salmon. The public should be aware that NMFS will be reviewing the Council's recommendation which, if implemented, would affect trawl fishing activity.

2. Proposed Apportionment of Reserves to DAP

Regulations implementing the FMP require 20 percent of each TAC for pollock, Pacific cod, flounder (flatfish species), and the "other species" category be set aside in reserves for possible reapportionment at a later date (50 CFR 672.20(a)(2)(ii)). NMFS is proposing to reapportion reserves for each species category to DAP, anticipating that domestic harvesters and processors will need all the DAP amounts so specified. NMFS has reapportioned all the reserves to DAP effective on January 1 for the preceding 4 years, including 1991. Specifications of DAP shown in table 1 of this notice reflect apportioned reserves.

3. Assignments of the Sablefish TAC to Authorized Fishing Gear Users

Under § 672.24(c), sablefish TACs for each of the regulatory areas and districts are assigned to hook-and-line and trawl gear. In the Central and Western Regulatory Areas, 80 percent of the TAC is assigned to hook-and-line gear and 20 percent is assigned to trawl gear. In the Eastern Regulatory Area, 95 percent of the TAC is assigned to hook-and-line gear and 5 percent is assigned to trawl gear. This latter amount may only be used as bycatch to support directed fisheries for other target species. Sablefish caught with pot gear may not be retained. Table 2 shows the proposed assignments of sablefish TACs between the gear types that would be available if final 1992 TACs are unchanged.

TABLE 2.—PROPOSED 1992 SABLEFISH TAC SPECIFICATIONS IN THE GULF OF ALASKA AND ASSIGNMENTS THEREOF TO HOOK-AND-LINE AND TRAWL GEAR.

Area/district	TAC	Hook-and-line share	Trawl share
Western	2,925	2,340	585
Central	10,575	8,460	2,115
West Yakutat	4,050	3,848	202
Southeast Outside/East Yakutat	4,950	4,702	248
Total	22,500	19,350	3,150

4. Quarterly Apportionment of Pollock TAC

Regulations at 50 CFR 672.20(a)(2)(iv) require that the TAC for pollock in the Western/Central combined areas be equally divided into the four quarterly reporting periods during the fishing year. Any unharvested amount of a quarterly allowance will be added in equal proportions to the remaining quarterly allowance for the 1992 fishing year.

Harvests in excess of a quarterly allowance will be deducted in equal proportions from the remaining quarterly allowances for the 1992 fishing year. The Eastern Regulatory Area TAC of 3,400 mt will not be allocated quarterly.

Under current regulations, 23,250 mt of pollock, representing one-fourth of the 93,000 mt pollock TAC, would be available during each quarterly reporting period, subject to adjustments in harvest shortfalls or overages.

An interim TAC is also specified in Table 1 of 50 CFR 672.20(a) for the Shelikof Strait District. The interim TAC is a subset of the pollock TAC in the Western/Central Regulatory Area. It would be managed separately from the rest of the Western/Central Regulatory Area for purposes of obtaining sampling data from the fishery during the pollock roe season. The Council did not recommend a TAC for Shelikof Strait. If the Council does so at the December Council meeting, the TAC would be separately managed by the Director, Alaska Region, NMFS (Regional Director). Should the TAC be reached during the first quarterly reporting period, Shelikof Strait would be closed until the end of that period. If it is not reached, the Regional Director would close the pollock directed fishing season in the Western/Central Regulatory Area, including the Shelikof Strait District, at 12 noon, Alaska local time (A.l.t.), on a date during the first calendar quarter when the pollock harvest reaches 23,250 mt in the Western/Central Regulatory Area and the Shelikof Strait District combined. At the start of the second quarterly reporting period, March 30, 1992, if any pollock TAC in the Shelikof Strait remains, it would be managed with the rest of the Western/Central Regulatory Area under a single quarterly apportioned TAC.

Notwithstanding current regulations, certain changes have been proposed by the Council that could affect pollock management in 1992. At its September meeting, the Council adopted Amendment 25 to the FMP. Amendment 25, in part, would establish three pollock management districts in the Western/Central Regulatory Area instead of the overall combined Western/Central Regulatory Area. The management districts would be between the following longitudes: 147°–154°W, 154°–159°W, and 159°–170°W. If Amendment 25 is approved, the pollock TAC for 1992 would be further divided among these districts in proportion to known pollock biomass distribution in these districts.

Each of these would be further allocated into equal quarterly allowances.

Amendment 25 would also delete the Shelikof Strait District. Portions of this district that lie east and west of 154° W. longitude would be combined with the adjacent pollock management districts as proposed. If the Secretary does not approve Amendment 25, a TAC for the Shelikof Strait could be implemented in 1992.

5. PSC Limits Relevant to Fully Utilized Species

Under § 672.20(b)(1), if NMFS determines after consultation with the Council that the TAC for any species or species group will be fully utilized in the DAP fishery, NMFS may specify the PSC limit for that species or species group applicable to any JVP or TALFF fisheries. Any PSC limit specified shall be for bycatch only and cannot be retained. Under § 672.20(c)(6), if the Regional Director determines that a PSC limit applicable to a directed JVP or TALFF fishery has been or will be reached, NMFS will publish a notice of closure in the **Federal Register** prohibiting all further JVP or TALFF fishing in all or part of the regulatory area concerned.

The Council did not propose any PSC limits for fully utilized groundfish species at its September meeting, nor is it expected to make such recommendations at its December meeting. Groundfish PSC limits would only have been relevant if the Council had recommended groundfish apportionments to JVP or TALFF. The Council is not expected to recommend JVP or TALFF apportionments for the 1992 fishing year.

6. Pacific Halibut Prohibited Species Catch (PSC) Mortality Limits

Under § 672.20(f)(2)(ii), annual Pacific halibut PSC mortality limits are established and apportioned to trawl and hook-and-line gear and may be apportioned to pot gear. For 1991, NMFS, after consulting with the Council, established Pacific halibut PSC mortality limits of 2,000 mt and 750 mt for trawl and hook-and-line gear, respectively (56 FR 8723; March 1, 1991). At the September 1991 meeting, the Council recommended that NMFS again establish PSC limits of 2,000 mt and 750 mt to trawl and hook-and-line gear, respectively. Pot gear would be exempt from PSC limits.

Pot gear was exempt from Pacific halibut bycatch mortality accountability for the 1991 fishing year. Groundfish catches by pot gear have been small to date. Observer information collected from the pot fisheries suggests that bycatch mortality is only 12 percent. No new information is available to warrant changing the 12 percent assumption. The Council proposed to exempt pot gear for one more year during which time additional information will be forthcoming to make recommendations about apportioning a PSC allowance to pot gear in future years.

NMFS concurs with the Council's recommendations. In doing so, NMFS has considered the following types of information as presented by, and summarized from, the preliminary 1992 SAFE Report, or as otherwise available:

(A) Estimated Pacific Halibut Bycatch in Prior Years

The best available information on estimated Pacific halibut bycatch is available from 1991 observations of the groundfish fisheries as a result of the NMFS Observer Program. The calculated Pacific halibut bycatch mortality by trawl, hook-and-line gear, and pot gear through September 28, 1991, is 1,766 mt, 911 mt, and 4 mt, respectively for a total of 2,681 mt. There mortality amounts were constraining to hook-and-line gear and trawl gear. The hook-and-line fishery was closed on July 9, 1991 (56 FR 32119; July 15, 1991). The trawl fishery was closed on October 14, 1991 (56 FR 52213; October 18, 1991).

Sablefish is the only GOA groundfish species that is allocated by gear type. When the hook-and-line fishery was closed on July 9, 1991, all of the sablefish hook-and-line allocation in the Eastern and Central Regulatory Areas had been caught. In the Western Regulatory Area, 750 mt, or 32 percent of the hook-and-line gear allocation in that area, remained unharvested. If the Pacific halibut PSC mortality limit for hook-and-line gear had not been reached, this amount of sablefish eventually would have been caught. Expressed in pounds, round weight, the resulting shortfall was about 1.65 million pounds. At $0.69 per pound, fishermen lost about $1.1 million in gross revenue. The directed fishery for Pacific cod was closed to all gear types on March 23, 1991 (56 FR 12852; March 28, 1991) (i.e., prior to the July 9, 1991, general closure to hook-and-line gear) and thus was not constrained by the hook-and-line Pacific halibut PSC limit.

The amount of groundfish remaining Gulf-wide following the October 14, 1991, trawl closure was about 47,000 mt, excluding pollock. The amount that trawl gear might have harvested absent the closure is not known. Lacking market incentives, some amounts of

groundfish would not have been harvested regardless of the closure.

(B) Expected Changes in Groundfish Catch

The total of the proposed 1992 specified TACs for the Gulf of Alaska is 307,192 mt. This amount is an increase from the 1991 total TAC of 299,589 mt. Significant changes in certain target species categories are proposed, including reductions in TACs for pollock and Pacific cod from 103,400 mt to 96,400 mt and from 77,900 mt to 67,400 mt, respectively. The pollack TAC reduction would not be expected to affect Pacific halibut bycatches, because most of the pollock harvest in the Gulf of Alaska is done with pelagic trawls that fish off-bottom. The smaller Pacific cod TAC could result in reduced Pacific halibut mortality associated with this Pacific cod fishery. Therefore, more Pacific halibut would be available as bycatch to support other trawl fisheries, especially rockfish and flatfish species. Fisheries for these species were constrained by Pacific halibut bycatch restrictions in 1991.

(C) Expected Changes in Groundfish Stocks

Reductions in TACs for pollock and Pacific cod resulted from new stock analyses. New analyses for deep water and shallow water flatfish, arrowtooth flounder, and pelagic shelf rockfish also show reduced abundances for these categories. Actual harvests of the flatfish species during 1992 could increase markedly compared to 1991 unless constrained by Pacific halibut PSC. More information on these changes is contained in the preliminary SAFE report.

(D) Current Estimates of Pacific Halibut Biomass and Stock Condition

The most current stock assessment by the International Pacific Halibut Commission (IPHC) indicates that the total exploitable biomass of Pacific halibut available for 1991 was 235.0 million pounds. A stock assessment of Pacific halibut biomass for 1992 from the IPHC is pending and will be addressed in the final notice of initial TAC specifications.

(E) Potential Impacts of Expected Fishing for Groundfish on Pacific Halibut Stocks and U.S. Pacific Halibut Fisheries

Impacts of the groundfish fishery on Pacific halibut stocks and the Pacific halibut fisheries will be constrained by the overall PSC mortality limit. The 1992 groundfish fisheries are expected to utilize the entire proposed Pacific halibut PSC limit of 2,750 mt. According to the IPHC, the PSC limit will result in an equal amount of 2,750 mt being deducted from the directed Pacific halibut fishery quota. The effect of such a deduction depends on the constant exploitable yield (CEY) for Pacific halibut as determined by the IPHC. The CEY represents about one-third of the exploitable biomass based on an exploitable rate of 0.35. The allowable directed commercial catch is determined by accounting for the recreational catch, waste, and bycatch mortality and then providing the remainder to the directed fishery.

(F) Methods Available for, and Costs of, Reducing Pacific Halibut Bycatches in Groundfish Fisheries

Methods available for reducing Pacific halibut bycatch include (1) reducing amounts of groundfish TACs, (2) reducing the Pacific halibut bycatch rate through vessel incentive programs, (3) gear modifications, and (4) changes in groundfish fishing seasons. Reductions in groundfish TACs provide no incentives for fishermen to reduce bycatch rates. Costs that would be imposed on fishermen as a result of reducing TACs depends on species and amounts of groundfish foregone.

Trawl vessels carrying observers for purposes of complying with the Observer Plan are subject to the Vessel Incentive Program authorized under revised Amendment 21 to the FMP (56 FR 21619; May 10, 1991). This program encourages fishermen to avoid high Pacific halibut bycatch rates while conducting target fisheries for Pacific cod and rockfish, other than pelagic shelf rockfish, by imposing substantial sanctions, including civil penalties, permit sanctions, and judicial forfeiture of the vessel and its catch, should bycatch rates exceed the specified standard bycatch rate. The Council may take final action at its December 1991 meeting to include all trawl fisheries under the Vessel Incentive Program which, if approved by the Secretary, would be expected to result in lower Pacific halibut bycatch rates.

Current regulations require groundfish pots to have Pacific halibut exclusion devices to reduce Pacific halibut bycatches. Resulting low bycatch rates of Pacific halibut in pot fisheries have justified exempting pot gear from PSC limits. Because none of the Pacific halibut PSC was needed during 1991 pot gear fisheries, it was entirely apportioned to trawl and hook-and-line gear to support bycatch needs in fisheries using these gear types.

The sablefish hook-and-line season will start May 15. This particular date was implemented for the first time in 1991 for purposes of reducing Pacific halibut bycatches that might otherwise occur when Pacific halibut are in deep water. The Council has also recommended that the Secretary implement a rule to delay the start of the rockfish fishery from January 1 to July 15. One of the purposes of this season delay would be to reduce excessively high Pacific halibut bycatches in the rockfish fishery by allowing sufficient time for most Pacific halibut to migrate seasonally into shallower water, thereby escaping the rockfish fishery, which is largely conducted in depths that transect the seasonal migration routes of Pacific halibut.

Methods listed under (F) will be reviewed to determine their effectiveness. Changes will be implemented as necessary in response to this review, either through regulatory or FMP amendments.

In keeping with the goals and objectives of the FMP to reduce Pacific halibut bycatches while providing opportunity to harvest the groundfish OY, NMFS proposes the assignments of 2,000 mt and 750 mt of Pacific halibut PSC mortality limits to trawl and hook-and-line gear, respectively. While these limits would reduce the harvest quota for commercial Pacific halibut fishermen, NMFS has determined that they will not result in unfair allocation to any particular user group. NMFS recognizes that some Pacific halibut bycatch will occur in the groundfish fishery, but a proposed delay in the rockfish season and currently required changes in gear designs are intended to reduce adverse impacts on Pacific halibut fishermen while promoting the opportunity to achieve the OY from the groundfish fishery.

7. Seasonal Allocations of the Pacific Halibut PSC Limits

Under § 672.20(f)(2)(iii), NMFS proposes to allocate the Pacific halibut PSC limits by season, based on recommendations from the Council. For purposes of this notice, the Council recommended the same seasonal allocation of PSC limits for the 1992 fishing year as those in effect during the 1991 fishing year (56 FR 8723; March 1, 1991). The 1991 allocations were as follows:

	Trawl—2,000	Hook-and-line—750 mt
01/01–03/31	600 mt (30%)	01/01–05/14 200 mt (27%)
04/01–08/30	600 mt (30%)	05/15–08/31 500 mt (66%)
07/01–09/29	400 mt (20%)	09/01–12/31 50 mt (7%)
09/30–12/31	400 mt (20%)	

Regulations specify that any overages or shortfalls in PSC catches will be accounted for in the next season.

NMFS based the proposed seasonal allocations of the Pacific halibut PSC limits on information summarized in the notice of final 1991 specifications (56 FR 8723; March 1, 1991), which is unchanged at this time, with one exception. That notice discussed a proposed sablefish season delay from April 1 to May 15. That new season date was in effect in 1991 and will be in effect again in 1992.

Interim Groundfish Harvest Specifications

Current regulations (50 CFR 672.20(c)(1)(i)) require that one-fourth of the proposed TACs and apportionments among DAP, JVP, TALFF, and one-fourth of the Pacific halibut PSC limits amounts, which were adopted by the Council at its September 1991 meeting, be implemented on an interim basis on January 1 of a new fishing year. Seasonal apportionments of TACs or PSC limits under provisions of other regulations may supersede this interim specification.

Table 1 of this notice shows one-fourth of each preliminary specification of TAC for each of the target species and the "other species" categories. These amounts will be in effect January 1, 1992, on an interim basis until superseded by a notice of final TAC specifications published in the Federal Register.

Other Matters

This action is taken under § 611.92 and § 672.20 and complies with Executive Order 12291.

List of Subjects 50 CFR Part 611

Fisheries, Foreign relations, Reporting and recordkeeping requirements.

50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Dated: November 15, 1991.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 91–27982 Filed 11–18–91; 12:48 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 56, No. 225
Thursday, November 21, 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

Forms Under Review by Office of Management and Budget

November 15, 1991.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copes of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404–W Admin. Bldg., Washington, DC 20250, (202) 447–2118.

Revision

• Agricultural Marketing Service
Walnuts Grown in California—Marketing Order No. 984
Recordkeeping; Monthly; Annually
Businesses or other for-profit; 5,722 responses; 1,407 hours
Richard Lower (202) 720–3923

Reinstatement

• Farmers Home Administration
7 CFR 1901–K, Certificates of Beneficial Ownership and Insured Notes
FmHA 471–7
On occasion
Individuals or households; Businesses or other for-profit; 445 responses; 126 hours
Jack Holston (202) 720–9736

Larry K. Roberson,
Deputy Departmental Clearance Officer.

[FR Doc. 91–28044 Filed 11–20–91; 8:45 am]
BILLING CODE 3410–01–M

Agricultural Stabilization and Conservation Service

1992-Crop Peanuts; National Poundage Quota

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of proposed determination.

SUMMARY: This notice set forth a proposed determination that the national poundage quota for the 1992 crop of quota peanuts be 1,610,000 short tons, an increase of 60,000 short tons over the quota for the 1991 crop. The national poundage quota for the 1992–93 marketing year must be announced on or before December 15, 1991.

DATES: Comments must be received by December 9, 1991, in order to be assured of consideration.

ADDRESSES: Send comments to Dr. Orval Kerchner, Acting Director Commodity Analysis Division (CAD), Agricultural Stabilization and Conservation Service (ASCS), room 3741–South Building, USDA, P.O. Box 2415, Washington, DC, 20013, telephone 202–720–3391. All written submissions will be made available for public inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, in room 3741–South Building, 14th and Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ronald W. Holling, commodity Analysis Division, Agricultural Stabilization and Conservation Service, room 3741–South Building, USDA, P.O. Box 2415, Washington, DC, 20013, telephone 202–720–7477. A Preliminary Regulatory Impact Analysis is available from the above-named person.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established to implement Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as "not major".

The matter under consideration 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, individuals, industries, Federal, State or local governments 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 titles and number of the Federal assistance program to which this notice applies are: Title—Commodity Loans and Purchases; Number 10.051, as found in the Catalog of Federal Domestic Assistance.

This program/activity is not subject to the provisions of Executive Order No. 12372 relating to intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

It has been determined that the Regulatory Flexibility Act is not applicable to this notice because ASCS is not required by 5 U.S.C. 533 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this determination.

Section 358–1(a)(1) of the Agricultural Adjustment Act of 1938 (the 1938 Act) as amended, requires that the national poundage quota for peanuts for each of the 1991 through 1995 marketing years be established by the Secretary at a level that is equal to the quantity of peanuts (in tons) that the Secretary estimates will be devoted in each such marketing year to domestic edible, seed, and related uses. Further, the national poundage quota for a marketing year shall not be less than 1,350,000 short tons (st). The marketing year (MY) for the 1992 crop of peanuts will run from August 1, 1992, through July 31, 1993. Poundage quotas for the 1991–95 crops of peanuts were approved by 98.2 percent of peanut growers voting in a referendum conducted December 10–13, 1990. The referendum was conducted pursuant to section 358–1(d) of the 1938 Act.

The national poundage quota for MY 1991 was 1,550,000 st. It is proposed that the national poundage quota for MY

1992 be established at 1,610,000 st based on the following data:

ESTIMATED DOMESTIC EDIBLE, SEED AND RELATED USES FOR 1992-CROP PEANUTS

Item	Short tons
Domestic Edible:	
Domestic Food	1,211,000
On farm and local sales	21,000
Subtotal	1,232,000
Seed	119,000
Related Uses:	
Crushing residual	189,000
Shrinkage and other losses	49,000
Segregation 2 and 3 loan transfers to quota loan	20,000
Quota product exports	1,000
Subtotal	259,000
Total	1,610,000

The estimate of 1992 domestic food use was developed in two steps. First, domestic food sue was estimated by using the United States Department of Agriculture Interagency Commodity Estimates Committee (ICEC) projections of 1,225,000 st., a 2-percent increase over estimated MY 1991 domestic food use of 1,200,000 st. This increase represents a long term annual upward trend in the domestic food use of edible peanuts. Second, to account for peanut butter exports, the trend figure was reduced by 14,000 st. Although the food use figures include product exports, such exports in most instances are either made from, or may otherwise be credited under section *359a(e)(1)* of the 1938 Act, as being made from additional peanuts. No adjustments were made for federal peanut butter and peanut produce purchases since domestic food program funding and policies for MY 1992 are not expected to change materially from MY 1991.

The estimate for farm use and local sales was derived by taking the difference between producer-certified 1990-crop marketings, which includes farm use and local sales but excludes seed, and 1990-crop inspections and projecting a 2-percent annual increase through MY 1992.

The seed estimate is based on the expected 1993-crop planted acreage for peanuts and the farmer stock equivalent of the seed needed to plant such acreage.

The crushing residual represents the farmer stock equivalent weight of crushing grade kernels shelled from quota peanuts. The crushing residual identified above was established based on a long standing measure used by the industry that estimates crushing peanuts will normally be approximately 14 percent, on a farmer stock basis, of the total domestic food and seed production.

The allowance for shrinkage and other losses from farmer stock delivery to use is not an estimate of an overall reduction in value of peanuts over the course of the marketing year but is an estimate of reduced kernel weight available for marketing as well as for kernel losses due to damage, fire, and spillage. These losses were estimated by multiplying a factor of 0.04 times domestic food use. This factor reflects a long standing and generally accepted industry estimate. Excess moisture and weight loss due to foreign material in delivered farmer stock peanuts were not considered since such factors are accounted for at buying points and do not impact upon quota marketing tonnage.

Segregation 2 and 3 transfers represent peanuts used in that manner would otherwise be eligible for use as quota peanuts but are not due to quality problems. Such transfers to quota peanut price support loan pools occur when quota peanuts producers due to no fault of their own would otherwise have insufficient Segregation 1 peanuts to fulfill their quota. In such instances, Segregation 2 and 3 peanuts pledged as collateral for price support loans as additional peanuts may be pledged as collateral for a price support loan as quota peanuts.

The calculation of quota needs also includes an estimate for the use of quota peanuts in the export market.

The comment period has been limited to end by December 9, 1991, in order to permit a final determination by December 15, 1991, as required by statute.

Proposed determination: Accordingly, the national poundage quota for 1992-crop peanuts is 1,610,000 short tons.

Authority: 7 USC-1358-1.

Signed at Washington, DC on November 15, 1991.

John A. Stevenson,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 91-28045 Filed 11-20-91; 8:45 am]

BILLING CODE 3410-05-M

Commodity Credit Corporation

Bylaws of Corporation

The Bylaws of the Commodity Credit Corporation, amended October 22, 1991, are as follows:

Offices

1. The principal office of the Corporation shall be in the City of Washington, District of Columbia, and the Corporation shall also have offices at such other places as it may deem necessary or desirable in the conduct of its business.

Seal

2. There is impressed below the official seal which is hereby adopted for the Corporation. Said seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced.

Meetings of the Board

3. Regular meetings of the Board shall be held, whenever necessary, on Wednesday at 9:30 a.m. in the Board meeting room in the U.S. Department of Agriculture in the City of Washington, DC. Notice of such meetings shall be provided in the same manner as is specified for special meetings in paragraph 4. No regular meetings of the Board shall be held except in accordance with provisions of the Government in the Sunshine Act (5 U.S.C. 552b).

4. Special meetings of the board may be called at any time by the Chairman, the Vice Chairman, or by the President, or the Executive Vice President and shall be called by the Chairman, the Vice Chaiman, the President, or the Executive Vice President a the written request of any five Members. Notice of special meetings shall be given either personally or by mail (including intradepartmental mail channels of the Department of Agriculture or interdepartmental mail channels of the Federal Government) or by mailgram, and notice by telephone shall be personal notice. Any Member may waive in writing such notice as to himself, whether before or after the time of the meeting, and the presence of a member at any meeting shall constitute a waiver of notice of such meeting. No notice of an adjourned meeting need be given. Any and all business may be transacted at any special meeting unless otherwise indicated in the notice thereof. No special meetings of the Board shall be held except in accordance with provisions of the

government in the Sunshine Act (5 U.S.C. 552b).

5. The Secretary of Agriculture shall serve as Chairman of the Board. The Deputy Secretary of Agriculture shall serve as Vice Chairman of The Board and, in the absence or unavailability of the Chairman, shall preside at meetings of the Board. In the absence or unavailability of the Chairman and the Vice Chairman, the President of the Corporation shall preside at meetings of the Board. In the absence or unavailability of the Chairman, the Vice Chairman, and the President, the Members present at the meeting shall designate a Presiding Officer.

6. At any meeting of the Board a quorum shall consist of five Members. The act of a majority of the Members present at any meeting at which there is a quorum shall be the act of the Board.

7. The General Counsel of the Department of Agriculture, whose office shall perform all legal work of the Corporation, and the Associate General Counsel in the Office of the General Counsel who is in immediate charge of legal work for the Corporation shall, as General Counsel and Associate General Counsel of the Corporation, respectively, attend meetings of the Board.

8. The Executive Vice President, the Vice President who is the Associate Administrator of the Agricultural Stabilization and Conservation Service, and the Secretary shall attend meetings of the Board. Each of the other Vice Presidents and Deputy Vice Presidents, and the Controller shall attend meetings of the Board during such time as the meetings are devoted to consideration of matters as to which they have responsibility.

9. Other persons may attend meetings of the Board upon specific authorization by the Chairman, Vice Chairman, or President.

Compensation of Board Members

10. The compensation of each Member shall be prescribed by the Secretary of Agriculture. Any Member who holds another office or position under the Federal Government, the compensation for which exceeds that prescribed by the Secretary of Agriculture for such Member, may elect to receive compensation at the rate provided for such other office or position in lieu of compensation as a Member.

Officers

11. The officers of the Corporation shall be a President, Vice Presidents, and Deputy Vice Presidents as hereinafter provided for, a Secretary, a Controller, a Treasurer, a Chief Accountant, and such additional officers as the Secretary of Agriculture may appoint.

12. The Under Secretary of Agriculture for International Affairs and Commodity Programs shall be ex officio President of the Corporation.

13. The following officials of the Agricultural Stabilization and Conservation Service (hereinafter referred to as ASCS), Foreign Agricultural Service (hereinafter referred to as FAS), Food and Nutrition Service (hereinafter referred to as FNS), and the Agricultural Marketing Service (hereinafter referred to as AMS) shall be ex officio officers of the Corporation:

Administrator, ASCS; Executive Vice President.
Administrator, AMS; Vice President.
Administrator, FAS; Vice President.
Administrator, FNS; Vice President.
General Sales manager and Associate Administrator, FAS; Vice President.
Associate Administrator, ASCS; Vice President.
Deputy Administrator, State and County Operations, ASCS; Deputy Vice President.
Deputy Administrator, Commodity Operations, ASCS; Deputy Vice President.
Deputy Administrator, Management, ASCS; Deputy Vice President.
Deputy Administrator, Program Planning and Development, ASCS; Deputy Vice President.
Executive Assistant to the Administrator, ASCS; Secretary.
Director, Executive Analysis and Appraisal Staff, Office of the Administrator, ASCS; Deputy Secretary.
Director, Financial Management Division, ASCS; Controller.
Deputy Director, for Domestic Programs, Financial Management Division, ASCS; Deputy Controller.
Deputy Director for Foreign Programs, Financial Management Division, ASCS; Treasurer.
Chief, Financial Accounting, Reports and Analysis Branch, Financial Management Division, ASCS; Chief Accountant.

The person occupying, in an acting capacity, the office of any person designated ex officio by this paragraph 13 as an officer of the Corporation shall, during his occupancy of such office, act as such officer.

14. Officers who do not hold office ex officio shall be appointed by the Secretary of Agriculture and shall hold office until their respective appointments shall have been terminated.

The President

15. (a) The President shall have general supervision and direction of the Corporation, its officers and employees.

(b) The President shall establish and direct an Office of the Secretariat. Such office shall be responsible for obtaining or developing, or as the President determines, information on major program or policy proposals submitted to the Board.

The Vice Presidents

16. (a) The Executive Vice President shall be the chief executive officer of the Corporation and shall be responsible for submission of all Corporation policies and programs to the Board. Except as provided in paragraphs (b), (c), (d), and (e) below, the Executive Vice President shall have general supervision and direction of the preparation of policies and programs for submission to the Board, of the administration of the policies and programs approved by the Board, and of the day-to-day conduct of the business of the Corporation and of its officers and employees.

(b) The Vice President who is the Administrator, FAS, shall be responsible for preparation for submission by the Executive Vice President to the Board of those policies and programs of the Corporation which are for performance through the facilities and personnel of FAS. He shall also have responsibility for the administration of those operations of the Corporation, under policies and programs approved by the Board, which are carried out through facilities and personnel of FAS. He shall also perform such special duties and exercise such powers as may be prescribed, from time to time, by the Secretary of Agriculture, the Board, or the President of the Corporation.

(c) The Vice President who is Administrator, AMS, shall be responsible for the administration of those operations of the Corporation, under policies and programs approved by the Board, which are carried out through facilities and personnel of AMS. He shall also perform such special duties and exercise such powers as may be prescribed, from time to time, by the Secretary of Agriculture, the Board, or the President of the Corporation.

(d) The Vice President who is the General Sales Manager and Associate Administrator, FAS, shall be responsible for preparation for submission by the Executive Vice President to the Board of policies and programs of the Corporation which are for performance through the facilities and personnel of FAS. He shall also have responsibility for the administration of those operations of the Corporation, under the policies and programs approved by the Board, which are carried out through facilities and personnel of FAS. He shall

also perform such special duties and exercise such powers as may be prescribed, from time to time, by the Secretary of Agriculture, the Board, or the President of the Corporation.

(e) The Vice President who is the Administrator, FNS, shall be responsible for the administration of those operations of the Corporation, under policies and programs approved by the Board, which are carried out through facilities and personnel of FNS. He shall also perform such special duties and exercise such powers as may be prescribed, from time to time, by the Secretary of Agriculture, the Board, or the President of the Corporation.

17. The Vice President who is the Associate Administrator, ASCS, and the Deputy Vice Presidents shall assist the Executive Vice President in the performance of his duties and the exercise of his powers to such extent as the President or the Executive Vice President shall prescribe, and shall perform such special duties and exercise such powers as may be prescribed, from time to time, by the Secretary of Agriculture, the Board, the President of the Corporation, or the Executive Vice President of the Corporation.

The Secretary

18. The Secretary shall attend and keep the minutes of all meetings of the Board; shall attend to the giving and serving of all required notices of meetings of the Board; shall sign all papers and instruments to which his signature shall be necessary or appropriate; shall attest the authenticity of and affix the seal of the Corporation upon any instrument requiring such action and shall perform such other duties and exercise such other powers as are commonly incidental to the Office of Secretary as well as such other duties as may be prescribed, from time to time, by the President or the Executive Vice President.

The Controller

19. (a) The Controller shall have charge of all fiscal and accounting affairs of the Corporation, including all borrowings and related financial arrangements, claims activities, and formulation of prices in accordance with established policies; and shall perform such other duties as may be prescribed, from time to time, by the President or the Executive Vice President.

(b) The Deputy Controller shall assist the Controller in the administration of all fiscal and accounting affairs of the Corporation, including all borrowings and related financial arrangements, claims activities, and formulation of prices in accordance with established policies; and shall perform such other duties as may be prescribed, from time to time, by the President or the Executive Vice President.

The Treasurer

20. The Treasurer, under the general supervision and direction of the Controller, shall have charge of the custody, safekeeping and disbursement of all funds of the Corporation; shall designate qualified persons to authorize disbursement of corporate funds; shall direct the disbursement of funds by disbursing officers of the Corporation or by the Treasurer of the United States, Federal Reserve Banks and other fiscal agents of the Corporation; and shall issue instructions incidental thereto; shall be responsible for documents relating to the general financing operations of the Corporation, including borrowings from the United States Treasury, commercial banks and others; shall arrange for the payment of interest on and the repayment of such borrowings; shall arrange for the payment of interest on the capital stock of the Corporation; shall coordinate and give general supervision to the claims activities of the Corporation and shall have authority to collect all monies due the Corporation, to receipt therefor and to deposit same for the account of the Corporation; and shall perform such other duties relating to the fiscal and accounting affairs of the Corporation as may be prescribed, from time to time, by the Controller.

The Chief Accountant

21. The Chief Accountant, under the general supervision and direction of the Controller, shall have charge of the general books and accounts of the Corporation and the preparation of financial statements and reports. He shall be responsible for the initiation, preparation and issuance of policies and practices related to accounting matters and procedures, including official inventories, records, accounting and related office procedures where standardized, and adequate subsidiary records of revenues, expenses, assets and liabilities; and shall perform such other duties relating to the fiscal and accounting affairs of the Corporation as may be prescribed, from time to time, by the Controller.

Other Officials

22. Except as otherwise authorized by the Secretary of Agriculture or the Board, the operations of the Corporation shall be carried out through the facilities and personnel of ASCS, FAS, FNS, and AMS in accordance with any assignment of functions and responsibilities made by the Secretary of Agriculture and, within his respective agency or office, by the Addministrators of ASCS, FAS, FNS, AMS, or the General Sales Manager and Associate Administrator, FAS.

23. The Directors of the divisions and the Directors of the Kansas City Commodity Office and the Kansas City Management Office of the ASCS shall be Contracting Officers and executives of the Corporation in general charge of the activities of the Corporation carried out through their respective divisions or offices. The responsibilities of such Directors in carrying out activities of the Corporation, which shall include the authority to settle and adjust claims by and against the Corporation arising out of activities under their jurisdiction, shall be discharged in conformity with these Bylaws and applicable programs, policies, and procedures.

Contracts of the Corporation

24. Contracts of the Corporation relating to any of its activities may be executed in its name by the Secretary of Agriculture or the President. The Vice President, the Deputy Vice Presidents, the Controller, the Treasurer, and the Directors of the divisions and the Directors of the Kansas City Commodity Office and the Kansas City Management Office of the ASCS may execute contracts relating to the activities of the Corporation for which they are respectively responsible.

25. The Executive Vice President who is the Administrator of ASCS and, subject to the written approval by such Executive Vice President of each appointment, the Vice Presidents, the Deputy Vice Presidents, the Controller, and the Directors of the divisions and the Directors of the Kansas City Commodity Office and the Kansas City Management Office of the ASCS may appoint, by written instrument or instruments, such Contracting Officers as they deem necessary, who may, to the extent authorized by such instrument or instruments, execute contracts in the name of the Corporation. A copy of each such instrument shall be filed with the Secretary.

26. Appointments of Contracting Officers may be revoked by written instrument or instruments by the Executive Vice President or by the official who made the appointment. A copy of each instrument shall be filed with the Secretary.

27. In executing a contract in the name of the Corporation, an official shall indicate his title.

Annual Report

28. The Executive Vice President shall be responsible for the preparation of an annual report of the activities of the Corporation, which shall be filed with the Secretary of Agriculture and with the Board.

Amendments

29. These Bylaws may be altered or amended or repealed by the Secretary of Agriculture, or subject to his approval by action of the Board at any regular meeting of the Board or at any special meeting of the Board, if notice of the proposed alteration, amendment, or repeal be contained in the notice of such special meeting.

Approval of Board Action

30. The actions of the Board shall be subject to the approval of the Secretary of Agriculture.

I, James V. Hansen, Secretary, Commodity Credit Corporation, do hereby certify that the above is a full, true, and correct copy of the Bylaws of Commodity Credit Corporation, as amended October 22, 1991.

In witness whereof I have officially subscribed my name and have caused the corporate seal of he said Corporation to be affixed this 15th day of November, 1991.

James V. Hansen,

Secretary, Commodity Credit Corporation.

[FR Doc. 91-28046 Filed 11-20-91; 8:45 am]

BILLING CODE 3410-05-M

Forest Service

Ice Caves Timber Sale, Dixie National Forest, Kane County, UT

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) on a proposal to harvest timber in the Ice Caves area of the Cedar City Range District, Dixie National Forest. The area is approximately 35 miles east of Cedar City, Utah.

The Forest Service Mission is to provide for sustained flow of renewable resources, while promoting a healthy and productive environment for the Nation's forests and rangelands. It is responsible and necessary, then, that the Forest Service propose a project to meet the desired future condition for this area as described in the Dixie National Forest Land and Resource Management Plan.

The agency is seeking information and comments from Federal, State and local agencies and individuals and organizations who may be interested in or affected by the proposed action. This input will be used in preparing the Draft Environmental Impact Statement.

DATES: Comments concerning this project should be received by December 12, 1991

ADDRESSES: Submit written comments and suggestions to: District Ranger, Cadar City Ranger District, Dixie National Forest, P.O. Box 627, Cedar City, UT 84721-0627

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and EIS to Randall Hayman, Forester/Silviculturist, Cedar City Ranger District, P.O. Box 627, Cedar City, UT 84721-0627, phone (801) 865-3200.

SUPPLEMENTARY INFORMATION: The proposed timber sale was identified in the Dixie National Forest Land Resource Management Plan (DNF-LRMP) as a management activity that could be used to move this area closer to the desired future condition as described in the DNF-LRMP. The proposed project area encompasses approximately 5,206 acres of National Forest System lands. Vegetation consists of ponderosa pine and mixed conifer stands containing scattered aspen patches, dry meadows, and intermittent drainages. Portions of the area were logged in the early 1960's. Use of the area includes grazing by permitted sheep, fuelwood gathering, hunting, off-road vehicle travel, and snowmobiling.

The EIS will tier to the DNF-LRMP and FEIS which provides the Forest Plan guidance for management activities by specifying the goals and objectives, desired future condition, management area direction, and standards and guidelines. The proposed project area includes land designated under the DNF-LRMP as Wood Production and Utilization (7A); Roaded Natural Recreation (2B); and Developed Recreation (1A). No other licenses or permits are required to implement the proposed action.

A reasonable range of alternatives will be considered. One of these alternatives will be the "no action" alternative in which the proposed action would not be implemented, but current management would continue (i.e., dispersed recreation, livestock grazing, fuelwood gathering, etc.). Other alternatives to the proposed action will examine various silvicultural and management options designed to achieve integrated resource management goals. As lead agency, the Forest Service will analyze and document the direct, indirect and cumulative environmental effects of the alternatives. The EIS will also include site specific mitigation measures.

The Proposed Action would implement a combination of treatments designed to move the project area toward the desired future condition (DFC), as defined in the DNF-LRMP. It has been estimated that approximately 2225 acres would be harvested, removing an estimated 5500 MBF of conifer volume and 700 MBF of aspen volume. A total of 23.1 miles of systems roads would be needed to complete harvest and post-harvest operations: 2.2 miles of construction, 4.1 miles of reconstruction, and 14.6 miles of pre-haul maintenance or reconditioning of an existing road system. An estimated 1600 acres would be percommercially thinned following commercial harvest to further improve species composition, stand vigor and/or growth. An estimated 350 acres would be regenerated; approximately 35 acres would be regenerated naturally to aspen and 315 acres would be regenerated artificially and/of naturally with desirable conifer species.

Public comment on the proposed action is invited. The Forest Service has received public comments since 1990 through letters, public meetings, and field reviews. All responses received from previous requests for public comment will be incorporated into the analysis process, and do not need to be repeated with any additional comments that publics wish to make concerning this project. The following tentative issues have been developed from previous public comments:

Issues Concerning Visuals and Recreation

a. Lack of treatment in overmature aspen and conifer stands progressing toward climax may decrease visual quality in DNF-LRMP Management Area 1A and 2B, and a long visual corridors in this area.

b. Harvest activities may affect the visual integrity of the travel corridors, recreation sites, and subdivisions located in or near the project area.

c. Harvest activities may affect the quality of the recreational experience for those that venture off the main roads and trails.

d. Post harvest travel managment of skid trails and roads may facilitate off-road vehicle travel in the project area and negatively impact other resources.

e. Off-road public fuelwood gathering may impact other resources.

Issues Concerning Wildlife

a. Habitat for management indicator species (MIS) identified in the DNF–LRMP may be reduced by the timber harvest activities.

b. Old growth ecosystems within the project area may be reduced or fragmented by the proposed action, thereby impacting old growth dependent or related wildlife species.

c. Habitat for MIS species identified in the DNF-LRMP may be impacted by post-harvest travel management.

d. Proposed aspen management may contribute to wildlife habitat enhancement.

Issues Concerning Timber Management

a. Lack of treatment may result in growth rates that are below site potential for maximizing sawlog production due to overstocking, insects and disease and species composition.

b. Lack of equal size class distributions may affect maintenance of a sustained yield of timber products.

c. Treatment methods may effect the potential for wildfire by altering fuel loading and fuel corridors within the project area. Project area is within a urban interface area (adjoining private subdivisions to the north).

Issues Concerning Soil, Hydrology and Fisheries

a. Timber harvest and road construction/reconstruction may effect water quality, stream channel stability, and fisheries in Duck Creek and Willis Creek.

Issues Concerning Social/Economics

a. Sales offered may not meet the needs of small timber operators.

b. Proposed actions may not yield cost effective treatments. (Maximize Public Net Benefits).

c. Wood products resulting from harvest activities may contribute to the culture, health, and stability of several local communities.

Issues Concerning Rangeland Use

a. Grazing restrictions proposed for protection of regeneration areas on this sale and, it necessary, on the adjacent Lars Fork timber sale project area, may decrease the amount of forage available for livestock use on the Deep Creek allotment.

The DIES is expected to be available for public review by March 1992. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the **Federal Register**. It is very important that those interested in this proposed action participate at that time. To be the most helpful, comments on the draft environmental impact statement should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

In addition, Federal court decisions have established that reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *City of Angoon* v. *Hodel*, (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final.

The Final Environmental Impact Statement (FEIS) is expected to be published by July 1992.

Hugh C. Thompson, Forest Supervisor, Dixie National Forest, is the responsible official.

Dated: November 8, 1991.

Hugh Thompson,

Forest Supervisor.

[FR. Doc. 91–28031 Filed 11–20–91; 8:45 am]

BILLING CODE 3410–11–M

Appalachian Power Company Transmission Line Construction-Cloverdale, Virginia to Oceana, West Virginia, et al.

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare, using a contractor, a draft and final environmental impact statement on a proposed action to authorize the Appalachian Power Company to construct a 765,000-volt transmission line across approximately twelve miles of the Jefferson National Forest, as well as portions of the Appalachian National Scenic Trail, the New River (at Bluestone Lake) and R.D. Bailey Lake Flowage Easement Land (at Guyandotte River).

The Appalachian Power Company proposal involves Federal land under the administrator jurisdiction of the USDA Forest Service (Jefferson National Forest), The USDI National Park Service (Appalachian National Scenic Trail) and the US Army Corps of Engineers (New River and R.D. Bailey Lake Flowage Easement Land).

The Forest Service will be the lead agency and is responsible for the preparation of the environmental impact statement. The National Park Service and the US Army Corps of Engineers will be cooperating agencies in accordance with 40 CFR 1501.6.

The total length of the electric transmission line proposed by the Appalachian Power Company is approximately 115 miles.

DATES: Comments concerning the scope of the analysis should be received in writing by March 31, 1992, to ensure timely consideration.

ADDRESSES: Send written comments to: Joy E. Berg, Forest Supervisor; Jefferson National Forest; 210 Franklin Road, SW., Caller Service 2900, Roanoke, Virginia 24001.

FOR FURTHER INFORMATION CONTACT: Frank Bergmann, Forest Service Project Coordinator, (703) 982–4348.

SUPPLEMENTARY INFORMATION: The Appalachian Power Company has submitted an application to the Jefferson National Forest for authorization to construct a 765,000-volt electric transmission line across approximately twelve miles of the National Forest. Portions of the Appalachian National Scenic trail, the New River (at Bluestone Lake), and R.D. Bailey Lake Flowage Easement Land (at Guyandotte River) would also be crossed by the proposed transmission line.

Studies conducted by the Appalachian Power Company and submitted to the Virginia State Corporation Commission, as part of its application and approval process, indicate a need to reinforce its extra high voltage transmission system by the mid-to-late 1990s in order to maintain a reliable power supply for projected demands within its service territory in central and western Virginia and southern West Virginia.

The proposed transmission line would cover a distance of approximately 115 miles between Cloverdale, Virginia, and Oceana, West Virginia.

A study to evaluate potential route locations for the proposed transmission line has been prepared for Appalachian Power Company through a contract with Virginia Polytechnic Institute and State University (VPI) and West Virginia University (WVU). The information

gathered by VPI and WVU, along with other information collected during the analysis process, will be utilized in the preparation of the environmental impact statement. General information about the transmission line route proposal is available from the Jefferson National Forest.

The decisions to be made following the environmental analysis are whether the Forest Service, the National Park Service, and the US Army Corps of Engineers will authorize Appalachian Power Company to cross approximately twelve miles of the Jefferson National Forest, a segment of the Appalachian National Scenic Trail, and the New River and R.D. Bailey Lake Flowage Easement Land, respectively, with the proposed 765,000-volt transmission line and under what conditions a crossing would be authorized.

The following issues, related to the lands under Federal jurisdiction, will be considered in the environmental analysis as well as any significant issues identified during the scoping process: (1) Effects on health associated with electro-magnetic fields; (2) effects on the surface and ground water quality; (3) effects associated with herbicide use and other vegetation management practices within the transmission line corridor; (4) effects on the safety of individuals using sail planes and hang gliders in the vicinity of the transmission line; (5) effects on migratory raptors resulting from the construction of a power line along traditional migration routes; (6) effects on the value of private land located adjacent to Federal lands; (7) the audible noise effects associated with the transmission line; (8) effects on timber production within the transmission line corridor; (9) effects on cultural resources, fish and wildlife habitat, threatened and endangered plant and animal species, and to geologic resources; (10) effects on existing roads and bridges; (11) effects associated with the construction and maintenance of transmission line access roads; (12) effects on the visual resource resulting from the construction of the transmission line; (13) effects on he Appalachian National Scenic Trail from unauthorized vehicular access to and along the Trail.

In preparing the environmental impact statement, a range of alternatives will be considered to meet the purpose and need for the proposed action. They will include, as a minimum, alternative routes across lands administered by the Jefferson National Forest, the National Park Service and the US Army corps of Engineers; and a no action alternative. Under the no action alternative APCO would not be authorized to cross the Jefferson National Forest, the Appalachian National Scenic Trail, the New River and R.D. Bailey Lake Flow Age Easement Land. The alternatives developed by VPI and WVU will also be considered.

The following permits and/or licenses would be required to implement the proposed action:

—Certificate of Public Convenience and Necessity (Virginia State Corporation Commission)
—Certificate of Public Convenience and Necessity (West Virginia Public Service Commission)
—Special Use Authorization (Forest Service)
—Right-of-Way Authorization (National Park Service)
—Section 10 Permit (US Army Corps of Engineers)
—Right-of-Way Easement (US Army Corps of Engineers)
—Consent of Easement (US Army Corps of Engineers)

Other authorizations may be required from a variety of Federal and State agencies.

Public participation will occur at several points during the project analysis process. The first point in the analysis is the scoping process (40 CFR 1501.7). The Forest Service is seeking information, comments, and assistance from Federal, State and local agencies, the proponent of the action, and other individual or organizations who may be interested in or affected by the electric transmission line proposal. This input will be utilized in the preparation of the draft environmental impact statement. The scoping process includes, but is not limited to: (1) Identifying potential issues, (2) identifying issues to be analyzed in depth, (3) eliminating insignificant issues or those which have been covered by a relevant previous environmental analysis, (4) exploring additional alternatives, and (5) identifying potential environmental effects of the proposed action and alternatives (i.e., direct, indirect, and cumulative effects).

Public participation will be solicited through contacts with known interested and/or affected groups, and individuals; news releases; direct mailings; and/or newspaper advertisements. Public meetings will also be held to hear comments concerning the Appalachian Power Company proposal and to develop the significant issues to be considered in the analysis. When the dates, locations and times for the public meetings have been determined, this information will be made known to the public through the **Federal Register**, local media, direct contact with known interested and affected groups and individuals, and via direct mailings.

The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and available for public review by February, 1993. At that time, EPA will publish a notice of availability of the draft environmental impact statement in the **Federal Register**.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

Reviewers need to be aware of several court rulings related to public participation in the environmental impact statement review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45–day comment period so that substantive comments and objectives are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

After the comment period ends on the draft environmental impact statement, the comments will be analyzed,

considered, and responded to by the Forest Service and cooperating agencies in preparing the final environmental impact statement. The final environmental impact statement is scheduled to be completed by January, 1994.

The responsible officials will consider the comments, responses, environmental consequences discussed in the final environmental impact statement, and applicable laws, regulations, and policies in making a decision regarding this document. The responsible officials will document their decisions and reasons for their decisions in a Record of Decision.

The responsible official for the Forest Service is Joy E. Berg, Forest Supervisor, Jefferson National Forest, 210 Franklin Road, SW. Caller Service 2900 Roanoke, Virginia 24001. The responsible official for the National Park Service is John F. Byrne, Project Manager—Appalachian National Scenic Trail, National Park Service, Harpers Ferry Center, Harpers Ferry, West Virginia 25425. The responsible official for the US Army Corps of Engineers is James R. Van Epps, Colonel, Commanding, Huntington District, US Army Corps of Engineers, 508 8th Street, Huntington, West Virginia 25701–2070.

Dated: November 13, 1991.

Joy E. Berg,

Forest Supervisor, Jefferson National Forest.

[FR Doc. 91–27956 Filed 11–20–91; 8:45 am]

BILLING CODE 3410-11-M

A.M. Timber Sale, Okanogan National Forest, Okanogan County, WA

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to prepare an environment impact statement.

SUMMARY: The Forest Service, USDA, will prepare an environment impact statement (EIS) for projects within the A.M. Area. The proposed project is the A.M. Timber Sale, selling in 1993, and harvesting 8.0 million board feet of timber with 12 miles of road construction. The purpose of the EIS will be to develop and evaluate a range of alternatives for timber harvest and road construction levels. The alternatives will include a no action alternative, involving no timber harvest or road construction, and additional alternatives to respond to issues generated during the public involvement (scoping) process. The proposed project will be in compliance with the direction in the Okanogan National Forest Land and Resource Management Plan (Forest Plan) which provides the overall guidance for management of the area and the proposed projects for the next ten years. The agency invites written comments on the scope of this project. In addition, the agency gives notice of this analysis so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: Comments concerning the scope of the analysis should be received prior to January 1, 1991.

ADDRESSES: Submit written comments to Arlo VanderWoude, Timber Management Assistant, Twisp Ranger District, P.O. Box 188, Twisp, WA 98856.

FOR FURTHER INFORMATION CONTACT: Questions and comments about the EIS should be directed to Arlo VanderWoude, Timber Management Assistant, Twisp Ranger District, P.O. Box 188, Twisp, WA 98856; phone (509) 997–2131.

SUPPLEMENTARY INFORMATION: The Forest Service proposal includes timber harvest and road construction involving one timber sale, portions of which proposes entry into the Sawtooth Roadless Area. The area being analyzed is approximately 15,000 acres, and is located in T34N, R19E, WM; T34N, R20E, WM; and T33N, R20E, WM.

This draft EIS will be tiered to the Forest Plan. The Plan's direction for this project area is in the following management area (MA): MA25, intensively managing the timber and range resources. The major issues that have identified to date reflect entering an inventoried roadless area and maintaining high water quality.

The analysis will evaluate a range of alternatives. Alternatives to be evaluated included no action (or no harvesting or road building at this time), the proposed project (harvesting 8 million broad feet of timber and constructing 12 miles of road), and alternatives with varying levels of harvest and road construction.

Public meetings will be held during the analysis process to allow review and comment of information. Notification of the dates and times of the meetings will be published in the Omak Chronicle and Methow Valley News two weeks prior to the dates. Public participation will be especially important at several times during the analysis. The Forest Service will be seeking information, comments, and assistance from Federal, State, local agencies, Native American Tribes, and other individuals or organizations who may be interested in or affected by the proposed actions. This information will be used in preparation of the draft EIS. The scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Identifying issues which have been covered by a relevant previous environmental analysis.
4. Exploring additional alternatives.
5. Identifying potential environmental effects of the proposed action and alternatives (i.e. direct, indirect, and cumulative effects and connected actions).
6. Determining potential cooperating agencies and task assignments.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by September 1992. At that time, copies of the draft EIS will be distributed to interested and affected agencies, organizations, and members of the public for their review and comment. EPA will publish a notice of availability of the draft EIS in the **Federal Register.** The comment period on the draft EIS will be 45 days from the date the EPA notice appears in the **Federal Register.** It is very important that those interested in the management of the Okanogan National Forest participate at that time.

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 and may address the adequacy of the statement or the merit of the alternatives discussed (see Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act 40 CFR 1503.3).

The Forest Service believes it is important to give reviews notice at this early stage 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 reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after the completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 f. 2d 1016, 1022 (9th Cir, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can

meaningfully consider them in the final EIS.

The final EIS is scheduled to be completed by March 1993. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decision regarding this proposal. Sam Gehr, Forest Supervisor, Okanogan National Forest, is the responsible official, and will make a decision regarding this proposal. The responsible official will document the decision and reasons for the decision in the Record of Decision. The decision will be subject of Forest Service Appeal Regulations (36 CFR part 217).

Dated: November 8, 1991.

Sam Gehr,

Forest Supervisor.

[FR Doc. 91-28002 Filed 11-20-91; 8:45 am]

BILLING CODE 3410-11-M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting; Nevada Advisory Committee

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that the Nevada Advisory Committee to the Commission will convene at 10 a.m. and adjourn at 12 noon on December 9, 1991 at the Law Offices of Walther, Key, *et al;* 3500 Lakeside Court, 2nd Floor, Reno, Nevada 89509. The purpose of the meeting is to discuss the Committee's project on police-community relations.

Persons desiring additional information, or planning a presentation to the Committee, should contact Advisory Committee Chairperson, Margo Piscevich or Philip Montez, Director of the Western Regional Division (213) 894-3437, (TDD 213/894-0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, November 15, 1991.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 91-27966 Filed 11-20-91; 8:45 am]

BILLING CODE 6335-01-M

Agenda and Notice of Public Meeting; North Dakota Advisory Committee

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the North Dakota Advisory Committee to the Commission will be held from 9 a.m. until 630 p.m. on Friday, December 13, 1991, at the Holiday Inn Hotel, 1152 Memorial Highway (Interstate 94, Exit 34) Bismarck, North Dakota 58502. The purpose of the meeting is to conduct a briefing forum on the topic, "Native American Students in North Dakota Special Education Programs." Participants will include school officials, education specialists and representatives from education associations and community organizations, and parents.

Persons desiring additional information should contact Committee Chairperson, Bryce Streibel, or William F. Muldrow, Director of the Rocky Mountain Regional Division, (303) 844-6716 (TDD 303-844-6720). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., November 15, 1991.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 91-27967 Filed 11-20-91; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-307-803, C-307-804]

Postponement of Final Antidumping Duty and Countervailing Duty Determinations; Gray Portland Cement and Clinker From Venezuela

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: November 21, 1991.

FOR FURTHER INFORMATION CONTACT: David C. Smith, Office of Antidumping Investigations, or Elizabeth Graham, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at (202) 377-3798 or 377-4105, respectively.

POSTPONEMENT: On November 6, 1991, Venezolana de Cementos, S.A.C.A., a respondent in these investigations accounting for a significant proportion of exports of the subject merchandise, requested that the Department postpone the final antidumping duty determination, in accordance with section 735(a)(2) of the Tariff Act of 1930, as amended (the Act). Accordingly, we are postponing the date of the final determination until not later than March 18, 1992. Furthermore, on September 5, 1991, the final determination in the companion countervailing duty investigation was aligned with that of the antidumping duty investigation (56 FR 43907). Therefore, in accordance with section 705(a)(1) of the Act, the final determination in the countervailing duty investigation will also be postponed until not later than March 18, 1992.

The case briefs in the antidumping duty investigation are now due no later than February 6, 1992, and rebuttal briefs no later than February 13, 1992. The case briefs in the countervailing duty investigation are now due no later than than January 7, 1992, and rebuttal briefs no later than January 13, 1992. In accordance with 19 CFR 353.38(b) and 355.38(b), we will hold public hearings, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the antidumping duty hearing will he held on February 18, 1992, at 10 a.m. at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The tentative date for the countervailing duty hearing is January 21, 1992, at 1 p.m. at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearings 48 hours before the scheduled time.

This notice is published pursuant to sections 705(d) and 735(d) of the Act and 19 CFR 355.20(c)(3) and 353.20(b)(2).

Dated: November 13, 1991.

Majorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-28069 Filed 11-20-91; 8:45 am]

BILLING CODE 3510-DS-M

[A-570-811]

Antidumping Duty Order; Tungsten Ore Concentrates From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 21, 1991.

FOR FURTHER INFORMATION CONTACT: Tracey E. Oakes, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-3174.

SCOPE OF ORDER: The merchandise covered by this investigation is tungsten ore concentrates. This includes any concentrated or upgraded form of raw tungsten ore, whether high- or low-grade. High-grade tungsten ore concentrates are defined as a concentrated form of tungsten ore containing 65 percent of more by weight of tungsten trioxide. Low-grade tungsten ore concentrates are defined as a concentrated form of tungsten ore containing less than 65 percent by weight of tungsten trioxide. Low-grade tungsten ore concentrates include tungsten slime, which has a concentration of less than 35 percent by weight of tungsten trioxide. Tungsten ore concentrates are used in the production of intermediate tungsten products such as APT, tungstic oxide, and tungstic acid. These intermediate products have end uses in the metalworking, mining, construction, transportation, and oil- and gas-drilling industries. Tungsten ore concentrates are currently classifiable under item 2611.00.00.00 of the Harmonized Tariff Schedule (HTS). Although the HTS subheading is provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

SUPPLEMENTARY INFORMATION: In accordance with section 735(a) of the Tariff Act of 1930, as amended (the Act), on September 17, 1991, the Department made its final determination that tungsten ore concentrates from the PRC are being sold at less than fair value (56 FR 47738, September 20, 1991). On November 5, 1991, in accordance with section 735(d) of the Act, the ITC notified the Department that such imports materially injure a U.S. industry.

Therefore, in accordance with section 736 of the Act, the Department will direct U.S. Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act, antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of tungsten ore concentrates from the PRC. These antidumping duties will be assessed on all unliquidated entries of tungsten ore concentrates from the PRC entered, or withdrawn from warehouse, for consumption on or after July 10, 1991, the date of publication of the Department's preliminary determination in the **FEDERAL REGISTER** (56 FR 31387). On or after the date of Publication of this notice in the **FEDERAL REGISTER,** U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margin of 151.00 percent on all entries of tungsten ore concentrates from the PRC.

This notice constitutes an antidumping duty order with respect to tungsten ore concentrates from the PRC, pursuant to section 736(a) of the Act. Interested parties may contact the Central Records Unit, room B-099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act and 19 CFR 353.21.

Dated: November 14, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-28070 Filed 11-20-91; 8:45 am]

BILLING CODE 3510-DS-M

Foreign-Trade Zones Board

[Order No. 542]

Resolution and Order Approving With Restriction the Application of the Caddo/Bossier Parishes Port Commission for a Special-Purpose Subzone at the AT&T Telecommunications and Computer Equipment Manufacturing Plant in Shreveport, LA

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Caddo/Bossier Parishes Port Commission, grantee of FTZ 145, filed with the Foreign-Trade Zones Board (the Board) on August 23, 1990, requesting special-purpose subzone status at the telecommunications and computer equipment manufacturing plant of the American Telephone and Telegraph Company, in Shreveport, Louisiana, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the FTZ Board's regulations would be satisfied, and that the proposal would be in the public interest if approval were subject to a restriction that requires that privileged foreign status be elected on all foreign merchandise that is subject to antidumping or countervailing duty orders at the time of admission to the subzone, approves the application subject to the foregoing restriction.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority to Establish a Foreign-Trade Subzone in Shreveport, LA

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Caddo/Bossier Parishes Port Commission, grantee of Foreign-Trade Zone No. 145, has made application (filed August 23, 1990, FTZ Docket 37-90, 55 FR 35915, 9/4/90) in due and proper form to the Board for authority to establish a special-purpose subzone at the telecommunications and computer equipment manufacturing plant of American Telephone and Telegraph Company (AT&T) in Shreveport, Louisiana;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations would be satisfied and that the proposal would be in the public interest if approval were given subject to the restriction in the resolution accompanying this action;

Now, Therefore, in accordance with the application filed August 23, 1990, the Board hereby authorizes the establishment of a subzone at the AT&T plant in Shreveport, Louisiana, designated on the records of the Board as Foreign-Trade Subzone 145A, at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the regulations issued thereunder, to the restriction in the resolution accompanying this action, and also to the following express conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, DC, this 13th day of November, 1991, pursuant to Order of the Board.

Marjorie A. Chorlins,

Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 91-28071 Filed 11-20-91; 8:45 am]

BILLING CODE 3510-DS-M

[Order No. 544]

Approval for Expansion of Foreign-Trade Zone 2, New Orleans, LA

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-91u), and the Foreign-Trade Zones Board Regulations (15 CFR part 400), the Foreign-Trade Zones Board (the Board) adopts the following Resolution and Order:

Whereas, the Board of Commissioners of the Port of New Orleans, Grantee of Foreign-Trade Zone No. 2, has applied to the Board for authority to expand its general-purpose zone to include a site at New Orleans, within the New Orleans Customs port of entry;

Whereas, the application was accepted for filing on October 31, 1990, and notice inviting public comment was given in the **Federal Register** on November 13, 1990 (Docket 43-90, 55 FR 47357);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to improve and expand zone services in the New Orleans area; and,

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby orders:

That the Grantee is authorized to expand its zone in accordance with the application filed on October 31, 1990. The grant does not include authority for manufacturing operations, and the Grantee shall notify the Board for approval prior to the commencement of any manufacturing or assembly operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the Army District Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, DC, this 13th day of November, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

[FR Doc. 91-28072 Filed 11-20-91; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

President's Export Council; Meeting

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The Global Competitiveness and Trade Performance Subcommittee of the President's Export Council is holding a meeting to discuss organizational issues and ways the Council could encourage excellence in education; recommend removal of regulatory and other constraints to productivity; identify domestic barriers to trade; and explore ways the Council can encourage the development of standards and policies which will enable U.S. firms to compete in world markets. The President's Export Council was established on December 20, 1973, and reconstituted May 4, 1979, to advise the President on matters relating to U.S. export trade.

DATES: December 3, 1991, from 2 p.m. to 4:30 p.m.

ADDRESSES: Main Commerce Building, room 4830, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Seating is limited and will be on a first come, first serve basis.

FOR FURTHER INFORMATION CONTACT: Ms. Laureen Daly, President's Export Council, room 3215, Washington, DC 20230.

Dated: November 13, 1991.

Wendy H. Smith,

Staff Director and Executive Secretary, President's Export Council.

[FR Doc. 91-27928 Filed 11-20-91; 8:45 am]

BILLING CODE 3510-DR-M

Minority Business Development Agency

Business Development Center Applications: Brownsville, TX

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, the Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC or approximately a 3-year period, subject to Agency priorities, recipient performance and the availability of funds. The cost of performance for the first budget period (12 months) is estimated as $184,260 in Federal funds, and a minimum of $32,516 in non-Federal (cost sharing) contributions from April 1, 1992 to March 31, 1993. Cost-sharing contributions may be in the form of cash contributions, client fees, in-kind contributions or combinations thereof. The MBDC will operate in the Brownsville, Texas MSA geographic service area.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can identify and coordinate public and private sector resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and service as a conduit of information and assistance regarding minority business.

Applications will be evaluated initially by regional staff on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive. The selection of an application for further processing by MBDA will be made by the Director based on a determination of the application mist likely to further the purpose of the MBDC Program. The application will then be forwarded to the Department for final processing and approval, if appropriate. The Director will consider past performance of the applicant on previous Federal awards.

MBDCs shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist them in this effort, MBDCs may charge client fees for management and technical assistance (M&TA) rendered. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less, and 35% of the total cost for firms with gross sales of over $500,000.

MBDCs performing satisfactorily may continue to operate after the initial competitive year for up to 2 additional budget periods. MBDCs with year-to-date "commendable" and "excellent" performance ratings may continue to be funded for up to 3 or 4 additional budget periods, respectively. Under no circumstances shall an MBDC be funded for more than 5 consecutive budget periods without competition. Periodic reviews culminating year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's performance, the availability of funds and Agency priorities.

Awards under this program shall be subject to all Federal and Departmental regulations, policies, and procedures applicable to Federal assistance awards.

In accordance, with OMB Circular A-129, "Managing Federal Credit Programs," applicants who have an outstanding account receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements satisfactory to the Department of Commerce are made to pay the debt.

Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26.

The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the MBDC has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of MBDC work requirements; and reporting inaccurate or inflated claims of client assistance or client certification. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

On November 18, 1988, Congress enacted the Drug-Free Workplace Act of 1988 (Public Law 100-690, title V, subtitle D). The statute requires contractors and grantees of Federal agencies to certify that they will provide a drug-free workplace Pursuant to these requirements, the applicable certification form must be completed by each applicant as a precondition for receiving Federal grant or cooperative agreement awards.

"Certification for Contracts, Grants, Loans, and Cooperative Agreement" and SF-LLL, the "Disclosure of Lobbying Activities" (if applicable) is required in accordance with section 319 of Public Law 101-121, which generally prohibits recipients of Federal contracts, grants, and loans from using Legislative Branches of the Federal Government in connection with a specific contract, grant or loan.

CLOSING DATE: The closing date for applications is December 30, 1991. Applications must be postmarked on or before December 30, 1991.

Note: Please mail completed application to the following address: San Francisco Regional Office, 221 Main Street, room 1280, San Francisco, California 94105.

FOR APPLICATION KIT OR OTHER INFORMATION CONTACT: Dallas Regional Office, 1100 Commerce Street, Room 7B23, Dallas, Texas 75242, Attn: Yvonne Guevara, (214) 767-8001.

A pre-bid conference will be held on December 11, 1991, in the U.S. Federal Building, room 234, 500 Tenth Street, Brownsville, Texas at 10 a.m.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: November 14, 1991.

Melda Cabrera,

Regional Director, Dallas Regional Office.

[FR Doc. 91-28003 Filed 11-20-91; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Marine Mammals

AGENCY: National Marine Fisheries Service.

ACTION: Issuance of Scientific Research Permit 9P77 #56).

On September 19, 1991, notice was published in the **Federal Register** (56 FR 47189) that an application had been filed by Drs. William Aron and Howard Braham, National Marine Fisheries Service, Alaska Fisheries Science Center, National Marine Mammal Laboratory, 7600 Sand Point Way, NE., Seattle, WA 98115, for a research permit to (1) capture, tag, handle and release up to three times per year and to capture, instrument, tag, handle and release up to five times per year, 200 crabeater seals (*Lobodon carcinophagus*), 200 leopard seals (*Hydrurga leptonyx*), 200 Weddell seals (*Leptonychotes Weddelli*), 100 Ross seals (*Ommataphoca rossi*), 200 southern elephant seals (*Mirounga leonina*) and 110 Antarctic fur seals

(*Arctocephalus gazella*); (2) incidentally harass up to 3,000 southern elephant seals, 40,000 Antarctic fur seals and 500 each carbeater, leopard, Weddell, and Ross seals during activities associated with the types of take specified above and with surveys for abundance and distribution of pinnipeds and seabirds; (3) import into the United States all biological specimens taken from the species listed above (e.g., blood samples, vaginal smears) or obtained biological specimens from the pinniped species described above provided by collaborating investigators in Argentina, Australia, Brazil, Canada, Finland, France, Germany, India, Italy, Japan, New Zealand, Norway, Poland, South Africa, South Korea, Spain, Sweden, United Kingdom, and the USSR.

Notice is hereby given that on November 14, 1991, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Permit for the above taking, subject to certain conditions set forth therein.

The application and accompanying documentation satisfy the issuance criteria for scientific research permits. The requested project is consistent with the purposes and policies of the Act. The research will further a *bona fide* scientific purpose that does not involve unnecessary duplication of other research. The documentation is available for review in the following office:

Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., suite 7324, Silver Spring, Maryland 20910.

Dated: November 14, 1991.

Nancy Foster,

Director, Office of Protected Resources.

[FR Doc. 91–27981 Filed 11–20–91; 8:45 am]

BILLING CODE 3510–22–M

National Technical Information Service

Prospective Grant of Exclusive Patent License

This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Technical Information Service (NTIS), U.S. Department of Commerce, is contemplating the grant of an exclusive license in the United States to practice the invention embodied in U.S. Patent Application Serial Number 7–285,489 entitled, "Novel Lymphokine/Cytokine Genes" to Sandoz Pharma Ltd. having a place of business in Basel Switzerland. The patent rights in this invention have been assigned to the United States of America.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The invention covers particular aspects of recombinant DNA technology to produce unknown human lymphokine/cytokine-like proteins. It also relates to synthesis of products of such immune activation genes by recombinant cells, and to the manufacture and use of certain novel products enabled by the identification and cloning of DNAs encoding these factors.

The availability of the invention for licensing was published in the Federal Register of Vol. 55, No. 138, p. 29255, July 18, 1990.

A copy of the above identified patent application may be purchased from the NTIS sales Desk by telephoning 1–800–553–NTIS or by writing to Order Department, NTIS, 5285 Port Royal Road, Springfield, VA 22161.

Inquiries, comments and other materials relating to the contemplated license must be submitted to Girish C. Barua, Center for Utilization of Federal Technology, NTIS, Box 1423, Springfield, VA 22151, phone (703–487–4732). Applications for a license filed in response to this notice will be treated as objections to the grant of the contemplated license. Only written comments and/or applications for a license which are received by NTIS within sixty (60) days of this notice will be considered.

Douglas J. Campion,

Center for Utilization of Federal Technology, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 91–28082 Filed 11–20–91; 8:45 am]

BILLING CODE 3510–04–M

Prospective Grant of Exclusive Patent License

This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Technical Information Service (NTIS), U.S. Department of Commerce, is contemplating the grant of an exclusive license in the United States to practice the invention embodied in U.S. Patent Application Serial Number 7–566,108 entitled, "Lymphokine 154" to Sandoz Pharma Ltd. having a place of business in Basel, Switzerland. The patent rights in this invention have been assigned to the United States of America.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The invention covers to a newly identified secreted protein-Lymphokine 154. It relates to DNA segments encoding protein 154 as well as to protein itself.

The availability of the invention for licensing was published in the **Federal Register** of Vol. 56, No. 99, p. 23552, May 22, 1991.

A copy of the above identified patent application may be purchased from the NTIS sales Desk by telephoning 1–800–553–NTIS or by writing to Order Department, NTIS, 5285 Port Royal Road, Springfield, VA 22161.

Inquiries, comments and other materials relating to the contemplated license must be submitted to Girish C. Barua, Center for Utilization of Federal Technology, NTIS, Box 1423, Springfield, VA 22151, phone (703–487–4732). Applications for a license filed in response to this notice will be treated as objections to the grant of the contemplated license. Only written comments and/or applications for a license which are received by NTIS within sixty (60) days of this notice will be considered.

Douglas J. Campion,

Center for Utilization of Federal Technology, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 91–28033 Filed 11–20–91; 8:45 am]

BILLING CODE 3510–04–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 Form, and Applicable OMB Control Number: Repatriation Automated Accounting and Reporting System, DD Form 2585

Type of Request: Expedited submission, Approval Date Requested: January 3, 1992.

Average Burden Hours/Minutes Per Response: 20 minutes.

Responses Per Respondent: One.

Number of Respondents: 5,000.

Annual Burden Hours: 1,667.

Annual Responses: 5,000.

Needs and Uses: This system provides personnel information necessary to account for any military or civilian, regardless of nationality, evacuated from any country to the United States. This information will be data entered and a series of reports will be generated and made available to the Department of Defense, Federal and State agencies, as required.

Affected Public: Individuals or households, State or Local governments, Federal agencies or employees.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Office: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer 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.

Written request 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.

Dated: November 15, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91–28020 Filed 11–20–91; 8:45 am]

BILLING CODE 3810–01–M

U.S. Court of Military Appeals Code Committee Meeting

ACTION: Notice of public hearing.

SUMMARY: This notice announces the forthcoming public meeting of the Code Committee established by article 146, Uniform Code of Military Justice, 10 U.S.C. 946, to be held at 10 a.m. on December 6, 1991, in the Judge William Holmes Cook Conference room at the Courthouse of the United States Court of Military Appeals, 450 E Street, Northwest, Washington, DC 20442–0001. The agenda for this meeting will include consideration of the proposed changes to the Manual for Courts-Martial, United States, 1984, as well as other matters relating to the operation of the Uniform Code of Military Justice throughout the Armed Services.

DATES: December 6, 1991.

FOR FURTHER INFORMATION CONTACT: Thomas F. Granahan, Clerk of Court, United States Court of Military Appeals, 450 E Street, Northwest, Washington, DC 20442–0001, telephone (202) 272–1448.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense, November 18, 1991.

[FR Doc. 91–28018 Filed 11–20–91; 8:45 am]

BILLING CODE 3810–1–M

Office of the Secretary

Availability of Change 3 to DoD 5025.1–I, "DoD Directives System Annual Index"

AGENCY: Office of the Secretary, DoD.

ACTION: Notice.

SUMMARY: This document is to inform the public and Government Agencies of the availability of Change 3 to DoD 5025.1–I, dated January 1991. It is available from National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, telephone (703) 487–4650. The NTIS accession number for Change 3 is PB 91–959539.

FOR FURTHER INFORMATION CONTACT: Ms. P. Toppings, Directives Division, Correspondence and Directives Directorate, Washington Headquarters Services, Washington, DC 20301–1155, telephone (202) 697–4111.

Dated: November 15, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91–28019 Filed 11–20–91; 8:45 am]

BILLING CODE 3810–01–M

DELAWARE RIVER BASIN COMMISSION

Public Hearing and Special Commission Meeting

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing and meeting for business on November 25, 1991 at 10 a.m. in the Goddard Conference Room of the Commission's offices at 25 State Police Drive, West Trenton, New Jersey.

Possible Drought Emergency Declaration

Section 10.4 of the Delaware River Basin Compact provides that in the event of a drought or other condition which may cause an actual and immediate shortage of available water supply within the Basin, or within any part thereof, the Commission may, after public hearing, determine and delineate the area of such shortage and declare a water supply emergency therein. For the duration of such emergency, the Commission could limit the extent to which water users may direct or withdraw water for any purpose. The Commission is considering whether current and developing conditions of water supply and demand require the declaration of a water supply emergency.

The purpose of this hearing is to permit the public to comment on these matters and to make any suggestions or recommendations concerning possible Commission actions.

All persons wishing to be heard should notify the Secretary of the Commission by 4 p.m., November 22, 1991.

There will be a business meeting of the Commission immediately following the hearing to consider possible Commission actions relating to the drought situation.

Dated: November 14, 1991.

Susan M. Weisman,

Secretary.

[FR Doc. 91–28034 Filed 11–20–91; 8:45 am]

BILLING CODE 6360–01–M

DEPARTMENT OF ENERGY

Notice of Restricted Eligibility

AGENCY: Pittsburgh Energy Technology Center, Energy.

ACTION: Notice of Restricted Eligibility for the FY92 Program Solicitation entitled: "Support of Advanced Coal Research at U.S. Colleges and Universities".

SUMMARY: The DOE announces that pursuant to 10 CFR 600.7(b)(1), it intends to conduct a competitive Program Solicitation No. DE–PS22–92PC92520, and to award, on a restricted eligibility basis, financial assistance (grants) to U.S. colleges, universities, and university-affiliated research institutions in support of advanced coal research. These grants will be awarded to a limited number of proposals selected on the basis of scientific merit, subject to the availability of funds.

SCOPE: Since the inception of the University of Coal Research Program in FY80 (by Congressional direction) it has been DOE's intent to maintain and upgrade educational, training and research capabilities at U.S. universities and colleges in the fields of science and technology related to coal. Moreover, the involvement of professor and students to generate fresh research ideas and to ensure a future supply of coal scientists and engineers is a key purpose of this program. Therefore, U.S. colleges, universities, and university-affiliated research institutions may submit, in response to this solicitation, applications only if the Principal Investigator or a Co-Principal Investigator listed on the application is a teaching professor at the university *and* at least one student registered at the university is to receive compensation for work performed in the conduct of research proposed in the application, *and* proposals from the university-affiliated research institutions must be submitted through the college or university with which they are affiliated. The university (not the university-affiliated research institution) will be the recipient of any resultant DOE grant award. So long as all of these conditions are met, other participants, or Co-Principal Investigators or research staff who do not hold teaching or student positions may be included as part of the research team.

Eligibility for participation in this program in FY92 is restricted to U.S. colleges and university-affiliated research institutions as defined above.

All applications must be related to coal research in one of the following seven technical categories:

(1) Coal Science

Fundamental research on the structure, characteristics, and reactivity of coal and coal-derived materials; nature of the oxygen-, nitrogen-, and sulfur-bonding in coal; geochemical and geophysical properties of coal; techniques and instrumentation applicable to the analysis of coal, coal mineral matter, trace elements in coal, and coal-derived materials.

(2) Coal Surface Science

Research on surface properties of coal and mineral matter pertinent to weathering, preparation (i.e. surface-based beneficiation, dewatering, and pelletizing), conversion, utilization, and the rheology of coal-oil/coal-water slurries.

(3) Reaction Chemistry

Fundamental research directed toward an understanding of organic, inorganic, and biochemistry of coal with respect to catalyzed and uncatalyzed conversion and utilization; chemical and microbiological coal cleaning, gasification, liquefaction, denitrification, denitrogenation, and desulfurization; novel reactions for depolymerizing coal; chemical reactions in supercritical fluids; and fuel cell chemistry.

(4) Advanced Process Concepts

Research on concepts to improve the efficiency or environmental acceptance of coal utilization and conversion processes, including coal preparation, through novel chemistry, engineering, combined process steps, reactors, or components.

(5) Engineering Fundamentals and Thermodynamics

Research on the effect of temperature and/or pressure on coal transport phenomena with or without chemical reactions; measurement and correlation of thermodynamic and transport properties pertinent to coal conversion and utilization; supercritical phase behavior; and new high performance materials for use in coal conversion and utilization, including interaction of ash with those materials.

(6) Environmental Science

Research on the formation, control, and elimination of gaseous, liquid, and solid pollutants arising from coal conversion and utilization reactions, including the emission of toxic substances such as trace metals, and techniques for the capture of carbon dioxide.

(7) High-Temperature Phenomena

Investigation of the physical and chemical phenomena observed at high temperature and/or high pressure, which, are associated with the combustion and gasification of coal, and the electromagnetic generation of power; vaporization of alkalis and ash fusion in coal conversion and utilization processes; high temperature separation techniques.

In addition to the above described University Coal Research Base Program, the DOE intends to select one proposal under a Joint University/Industry Coal Research Pilot Program. It is a goal of this Joint University/Industry Coal Research Pilot Program to encourage a collaborative effort between academia and industry, and to enrich the educational experience for students by expanding their research exposure, with the expectation that good fundamental research will result which has the potential for application to U.S. Industry problems.

Under this Pilot, two or more universities/colleges with at least one industrial participant (minimum joint involvement of at least three (3) parties), may submit a proposal which falls under any of the seven (7) technical topics listed above. The proposing organization must be a U.S. University or College and will be the bargaining agent for the team. Proposals must offer cost sharing (cash and/or in-kind contributions) from a non-federal source at a minimum required level of at least twenty-five (25) percent of the federal share (federal share maximum of $400,000). Proposals must include industrial participation at a minimum of twenty-five (25) percent of the proposed work to be performed. (As with the UCR Base Program, subcontracting to industrial participants is limited to twenty-five (25) percent of the DOE's support of the work to be performed.) Proposals under this Pilot Program must be for a three year period. At least one (1) of the researchers from each participating university/college must be teaching professors at the participating university/college and at least one (1) student from each participating university/college must be compensated for work performed in conjunction with the project.

AWARDS: DOE anticipates awarding financial assistance (grants) for each project. Approximately $4.838 million is available for the program solicitation, 4.438 million is for the URC Base program and $400,000 is a set-aside for the Joint University/Industry Coal Research Pilot Program. The UCR Base Program should provide support for about twenty-five (25) proposals and the Pilot Program is to support one (1) proposal. Any funds not used in the Pilot Program (due to no responses received, no selections made or the DOE share of a selection is less than $400,000) will be returned to the Base Program for award. The Program Solicitation is expected to be ready for mailing by December 4, 1991.

Applications must be prepared and submitted in accordance with the instructions and forms in the Program Solicitation. To be eligible, applications must be received by the Department of Energy by January 22, 1992.

FOR FURTHER INFORMATION WRITE TO: For a copy of this solicitation or for further information, please write to: U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921–118, Pittsburgh, PA 15236, Attn: Cynthia Y. Mitchell, 412/892–4862.

Dated: November 7, 1991.

Carroll A. Lambton,

Director, Acquisition and Assistance Division.

[FR Doc. 91-28063 Filed 11-20-91; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 11151-000 Indiana]

Energy Alternatives of North America, Inc.; Declaring Application Ready for Environmental Analysis

November 14, 1991.

Take notice that the application for license for the Williams Dam Hydro Electric Project No. 11151, 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 by 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 (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 National Environmental Policy Act, and other applicable statutes). All reply comments must be filed with the Commission within 45 days of the comment date herein.

Comment date: February 3, 1992.

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 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).

You are advised to contact Ms. Julie Bernt on (202) 219-2814, if you have any questions about this notice.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27972 Filed 11-20-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP92-141-000, et al.]

Columbia Gulf Transmission Company, et al.; Natural gas certificate filings

Take notice that the following filings have been made with the Commission:

1. Columbia Gulf Transmission Company

[Docket No. CP92-141-000]

November 8, 1991.

Take notice that on November 1, 1991, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP92-141-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval for the abandonment of transportation of natural gas for United Gas Pipe Line Company (United), all as more fully set forth in the application on file with the Commission and open to public inspection.

Columbia Gulf states that by Commission order issued September 25, 1987, in Docket No. CP84-196-000, it is authorized to transport for United, on a contract-demand basis, 33,500 Mcf per day of natural gas produced from South Pass Blocks 57/58, 78, Mississippi Canyon Block 63 and South Pass Block 49, offshore Louisiana which United makes available to Columbia Gulf at an underwater side tap on its jointly owned 26-inch pipeline in South Pass Block 77, offshore Louisiana. Columbia Gulf states that it delivers such gas to Tennessee Gas Pipeline Company (Tennessee) for United at the interconnection of the South Pass 77 pipeline and Tennessee's facilities in Plaquemines Parish, Louisiana pursuant to the terms of a transportation agreement dated March 14, 1983, on file in said docket.

Columbia Gulf requests authorization to abandon this transportation service effective August 1, 1991, pursuant to an agreement between Columbia Gulf and United canceling the transportation agreement under which the gas is transported. Columbia Gulf states that no facilities will be abandoned as a result of this request.

Comment date: November 29, 1991, in accordance with Standard Paragraph F at the end of this notice.

2. Tennessee Gas Pipeline Company

[Docket No. CP92-145-000]

November 8, 1991.

Take notice that on November 6, 1991, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas filed in Docket No. CP92-145-000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to reassign the daily volumes that might be delivered to Berkshire Gas Company (Berkshire) under Tennessee's Rate Schedule No. CD-6, under its blanket certificate issued in Docket No. CP82-413-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Tennessee states that pursuant to the authorization granted by the Commission's order issued on May 18, 1989, in Docket No. CP87-358, Tennessee was authorized to provide a firm sales service for Berkshire under the terms of a November 1, 1989, contract. It is indicated that the contract provides for a contracted demand of 25,572 dt equivalent of natural gas per day and an annual quantity of 6,697,585 dt equivalent of natural gas under its Rate Schedule CD-6. It is also indicated that the contract provides for deliveries at five delivery points, with daily volume limits set at each point but with the sum of deliveries at all delivery points not exceeding the daily contract volume.

Tennessee states that by letter of September 9, 1991, Berkshire has requested Tennessee to increase the maximum daily quantities of gas that Tennessee may deliver at the existing West Pittsfield delivery point from 5,000 dt equivalent of natural gas per day to 10,000 dt equivalent of natural gas per day. It is indicated that the proposed daily quantity limit at the West Pittsfield delivery point would not change the

SCOPE: Since the inception of the University of Coal Research Program in FY80 (by Congressional direction) it has been DOE's intent to maintain and upgrade educational, training and research capabilities at U.S. universities and colleges in the fields of science and technology related to coal. Moreover, the involvement of professor and students to generate fresh research ideas and to ensure a future supply of coal scientists and engineers is a key purpose of this program. Therefore, U.S. colleges, universities, and university-affiliated research institutions may submit, in response to this solicitation, applications only if the Principal Investigator or a Co-Principal Investigator listed on the application is a teaching professor at the university *and* at least one student registered at the university is to receive compensation for work performed in the conduct of research proposed in the application, *and* proposals from the university-affiliated research institutions must be submitted through the college or university with which they are affiliated. The university (not the university-affiliated research institution) will be the recipient of any resultant DOE grant award. So long as all of these conditions are met, other participants, or Co-Principal Investigators or research staff who do not hold teaching or student positions may be included as part of the research team.

Eligibility for participation in this program in FY92 is restricted to U.S. colleges and university-affiliated research institutions as defined above.

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(3) Reaction Chemistry

Fundamental research directed toward an understanding of organic, inorganic, and biochemistry of coal with respect to catalyzed and uncatalyzed conversion and utilization; chemical and microbiological coal cleaning, gasification, liquefaction, denitrification, denitrogenation, and desulfurization; novel reactions for depolymerizing coal; chemical reactions in supercritical fluids; and fuel cell chemistry.

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AWARDS: DOE anticipates awarding financial assistance (grants) for each project. Approximately $4.838 million is available for the program solicitation, 4.438 million is for the URC Base program and $400,000 is a set-aside for the Joint University/Industry Coal Research Pilot Program. The UCR Base Program should provide support for about twenty-five (25) proposals and the Pilot Program is to support one (1) proposal. Any funds not used in the Pilot Program (due to no responses received, no selections made or the DOE share of a selection is less than $400,000) will be returned to the Base Program for award. The Program Solicitation is expected to be ready for mailing by December 4, 1991.

Applications must be prepared and submitted in accordance with the instructions and forms in the Program Solicitation. To be eligible, applications must be received by the Department of Energy by January 22, 1992.

FOR FURTHER INFORMATION WRITE TO: For a copy of this solicitation or for further information, please write to: U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921–118, Pittsburgh, PA 15236, Attn: Cynthia Y. Mitchell, 412/892–4862.

Dated: November 7, 1991.

Carroll A. Lambton,

Director, Acquisition and Assistance Division.

[FR Doc. 91-28063 Filed 11-20-91; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 11151-000 Indiana]

Energy Alternatives of North America, Inc.; Declaring Application Ready for Environmental Analysis

November 14, 1991.

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The Commission directs, pursuant to § 4.34(b) of the regulations (see Order No. 533 issued by 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 (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 National Environmental Policy Act, and other applicable statutes). All reply comments must be filed with the Commission within 45 days of the comment date herein.

Comment date: February 3, 1992.

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 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).

You are advised to contact Ms. Julie Bernt on (202) 219-2814, if you have any questions about this notice.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27972 Filed 11-20-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP92-141-000, et al.]

Columbia Gulf Transmission Company, et al.; Natural gas certificate filings

Take notice that the following filings have been made with the Commission:

1. Columbia Gulf Transmission Company

[Docket No. CP92-141-000]

November 8, 1991.

Take notice that on November 1, 1991, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP92-141-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval for the abandonment of transportation of natural gas for United Gas Pipe Line Company (United), all as more fully set forth in the application on file with the Commission and open to public inspection.

Columbia Gulf states that by Commission order issued September 25, 1987, in Docket No. CP84-196-000, it is authorized to transport for United, on a contract-demand basis, 33,500 Mcf per day of natural gas produced from South Pass Blocks 57/58, 78, Mississippi Canyon Block 63 and South Pass Block 49, offshore Louisiana which United makes available to Columbia Gulf at an underwater side tap on its jointly owned 26-inch pipeline in South Pass Block 77, offshore Louisiana. Columbia Gulf states that it delivers such gas to Tennessee Gas Pipeline Company (Tennessee) for United at the interconnection of the South Pass 77 pipeline and Tennessee's facilities in Plaquemines Parish, Louisiana pursuant to the terms of a transportation agreement dated March 14, 1983, on file in said docket.

Columbia Gulf requests authorization to abandon this transportation service effective August 1, 1991, pursuant to an agreement between Columbia Gulf and United canceling the transportation agreement under which the gas is transported. Columbia Gulf states that no facilities will be abandoned as a result of this request.

Comment date: November 29, 1991, in accordance with Standard Paragraph F at the end of this notice.

2. Tennessee Gas Pipeline Company

[Docket No. CP92-145-000]

November 8, 1991.

Take notice that on November 6, 1991, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas filed in Docket No. CP92-145-000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to reassign the daily volumes that might be delivered to Berkshire Gas Company (Berkshire) under Tennessee's Rate Schedule No. CD-6, under its blanket certificate issued in Docket No. CP82-413-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Tennessee states that pursuant to the authorization granted by the Commission's order issued on May 18, 1989, in Docket No. CP87-358, Tennessee was authorized to provide a firm sales service for Berkshire under the terms of a November 1, 1989, contract. It is indicated that the contract provides for a contracted demand of 25,572 dt equivalent of natural gas per day and an annual quantity of 6,697,585 dt equivalent of natural gas under its Rate Schedule CD-6. It is also indicated that the contract provides for deliveries at five delivery points, with daily volume limits set at each point but with the sum of deliveries at all delivery points not exceeding the daily contract volume.

Tennessee states that by letter of September 9, 1991, Berkshire has requested Tennessee to increase the maximum daily quantities of gas that Tennessee may deliver at the existing West Pittsfield delivery point from 5,000 dt equivalent of natural gas per day to 10,000 dt equivalent of natural gas per day. It is indicated that the proposed daily quantity limit at the West Pittsfield delivery point would not change the

total of the daily and/or annual quantities Berkshire is entitled under the contract.

Tennessee states that the requested change in delivery volumes would provide Berkshire with increased operational flexibility. Tennessee also states that no new facilities would be required to implement the modified service. It is indicated that the requested change is not prohibited by Tennessee's existing tariff. It is also stated that there would be no impact on Tennessee's peak day or average day deliveries.

Comment date: December 23, 1991, in accordance with Standard Paragraph G at the end of this notice.

3. MIGC, Inc.

[Docket No. CP92-149-000]

November 12, 1991.

Take notice that on November 6, 1991, MIGC, Inc. (MIGC), 12200 North Pecos Street, Suite 230, Denver, Colorado 80234, a request pursuant to § 157.205 and 157.212 of the Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to construct and operate a delivery tap for the delivery of gas for Western Gas Resources, Inc. to the facilities of MGTC, Inc. for ultimate delivery to a coal processing plant of ENCOAL Corp. in accordance with the terms of MIGC's blanket certificate issued in Docket No. CP82-409-000 pursuant to section 7 of the National Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

MIGC states that the quantity of gas to be delivered is estimated to be 100,000 Mcf on an annual basis and approximately 1,500 Mcf on a peak day. MIGC states that it anticipates no significant impact on its peak day or annual deliveries as a result of the proposed service. MIGC states that it would charge a rate pursuant to MIGC's interruptible Rate Schedule ITS-1 for the proposed service.

Comment date: December 27, 1991, in accordance with Standard Paragraph G at the end of this notice.

4. Texas Gas Transmission Corporation

[Docket No. CP92-150-000]

November 12, 1991.

Take notice that on November 7, 1991, Texas Gas Transmission Corporation (Texas Gas), Post Office Box 1160, Owensboro, Kentucky 42302, filed in Docket No. CP92-150-000 a request pursuant to § 157.205 and 157. 211 of the Commission's Regulations for authorization to add a new delivery point for Arkansas Power and Light Company (Arkansas Power) under Texas Gas' blanket certificate issued in Docket No. CP82-407-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas gas states that it currently transports gas for delivery to Arkansas Power at a meter located on Texas Gas' Helena 12-inch pipeline in Phillips County, Arkansas (the Arkansas Power and Light meter station). It is stated that Texas Gas installed and is currently operating such meter station under the authority of section 311 of the National Gas Policy Act of 1978.

It is stated that on November 1, 1990, pursuant to the Interim Rule issued in Docket No. RM90-13-000 Texas Gas filed to convert the section 311 transportation service for Arkansas Power to open access transportation service under Texas Gas' blanket certificate issued in Docket No. CP88-686-000. Texas Gas explains that the Interim Rule stated that it would be necessary to convert the facilities utilized in the section 311 service to Natural Gas Act section 7(c) facilities once a final rule was issued. Texas Gas states that the Commission issued such final rule on September 20, 1991, in Docket No. RM90-7-000, *et al.* Texas Gas further explains that the final rule states that if the section 311 facilities would be eligible for construction under the blanket certificate prior notice procedures, the facilities could be converted to section 7(c) authorization under the prior notice procedures.

Texas Gas submits that the Arkansas Power and Light-Helena Meter Station is eligible for such certification and Texas Gas requests authorization herein to change the status of this delivery point so that jurisdictional transportation service can be rendered through such point on a continuing basis.

Taxes Gas indicates that the quantity of gas to be delivered through this meter would vary and that the design capacity of the meter station is approximately 130 MMcf per day under normal operating conditions. Texas Gas does not propose any construction in the subject application.

Comment date: December 27, 1991, in accordance with Standard Paragraph G at the end of this notice.

5. Southern Natural Gas Company United Gas Pipe Line Company

[Docket No. CP92-146-000]

November 13, 1991.

Take notice that on November 6, 1991, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563, and United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP92-146-000 a joint application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation exchange service, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated that in Docket No. CP82-383-000, Southern and United were authorized to transport and exchange up to 115,000 Mcf of natural gas per day at eight delivery points under Rate Schedule X-151. More specifically, it is stated, that the June 1, 1981, exchange agreement, as amended, provides for United to deliver to Southern up to 75,000 Mcf of natural gas per day on a firm basis at the St. Martin Exchange Point, St. Martin Parish, Louisiana and for Southern to deliver to United an equivalent quantity of natural gas at the Gwinville Exchange Point (Gwinville), Jefferson Davis County, Mississippi; the Sugar Bowl Exchange Point, Livingston Parish, Louisiana; the Monticello Exchange Point, Lawrence County, Mississippi; and the Livingston Exchange Point, Livingston Parish, Louisiana. It is further stated that the exchange agreement provides for United to deliver on an interruptible basis to Southern up to 40,000 Mcf of natural gas per day at the Kosciusko Exchange Point, Attala County, Mississippi and for Southern to deliver to United an equivalent quantity of natural gas at the Livingston Exchange Point.

In addition, it is stated that the exchange agreement also provides for United, at its discretion, to receive from Southern at the Gwinville, Sugar Bowl and Monticello Exchange Points quantities of natural gas in excess of the quantities to be exchanged on a firm basis. In return, it is stated, United delivers to Southern an equivalent quantity of natural gas at the St. Martin, Bayou Sale, St. Mary Parish, Louisiana, and/or the Perryville, Perryville, Louisiana Exchange Points.

It is stated that the June 1, 1981, exchange agreement has a term of ten years and that both parties have agreed to terminate the service effective June 1, 1992. It is further stated that upon receipt of permission and approval to abandon such transportation exchange service, the parties will file the appropriate tariff sheets to cancel Rate Schedule X-151.

No facilities are proposed to be abandoned herein.

Comment date: December 4, 1991, in accordance with Standard Paragraph F at the end of the notice.

6. CNG Transmission Corporation

[Docket No. CP92-142-000]

November 13, 1991.

Take notice that on November 6, 1991, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP92-142-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas by CNG to Public Service Company of North Carolina (Public Service), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

In accordance with a precedent agreement dated October 30, 1991, CNG proposes to initiate a firm sale for resale to Public Service, a local distribution company which serves approximately 235,000 customers in 87 cities and towns in the state of North Carolina. CNG states that the proposed service would encompass sales of up to a maximum of 23,500 dekatherms per day (dtd) and 4,288,750 annually. It is further stated that the sale would be rendered under CNG's Rate Schedule CD and would extend for a term of 20 years commencing on November 1, 1993. CNG notes that in conjunction with the proposed sales service, Public Service has elected standby service of up to 11,750 Dtd. CNG explains that this election would entitle Public Service to transportation service within its contract demand, thus giving Public Service the option of either transporting third-party gas or purchasing the quantities from CNG.

It is stated that the sale to Public Service would allow CNG to enter a new market. It is indicated that Public Service is neither connected to CNG's system nor located in CNG's traditional service area. CNG proposes to deliver the sales gas (or standby transportation) to Public Service at the Nokesville interconnection between CNG's TL-465 pipeline (which was recently constructed as part of CNG's Virginia Natural Gas [VNG] project) and Transcontinental Gas Pipeline Corporation's (Transco) mainline near Nokesville, Prince William County, Virginia. CNG states that Transco would effect direct redelivery of the gas to Public Service at points in North Carolina by means of a backhaul transportation service. It is indicated that Transco would self implement this service under its Part 284 blanket certificate.

CNG asserts that it can provide the proposed sales service without any additional facilities. However, it is noted that the sales gas would have to be delivered through its PL-1 pipeline, a non-contiguous lateral which is linked to CNG's system via firm transportation capacity which CNG holds in Texas Eastern Transmission Corporation's (Texas Eastern) system. It is explained that since CNG's capacity in Texas Eastern is fully utilized, Texas Eastern will have to expand its Capacity Restoration Project Line (CRP line) in order for CNG to make the proposed sale. CNG states that Texas Eastern has agreed to undertake the necessary expansion and will shortly file an application to increase the capacity of the CRP line by approximately 30,000 dtd, thus enabling Texas Eastern to augment its firm transportation for CNG by 30,000 dtd.

Depending on whether Public Service elects sales or transportation service, or a combination of both, CNG states that it would charge Public Service the currently effective Rate Schedule CD or TF rates, as applicable.

Comment date: December 4, 1991, in accordance with Standard Paragraph F at the end of this notice.

7. Carnegie Natural Gas Company)

[Docket No. CP92-173-000]

November 13, 1991.

Take notice that on November 12, 1991, Carnegie Natural Gas Company (Carnegie), 800 Regis Avenue, Pittsburgh, Pennsylvania 15236, filed in Docket No. CP92-173-000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to add new delivery points for providing natural gas sales service to two existing customers under Carnegie's blanket certificate issued in Docket No. CP88-248-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Carnegie proposes the addition of a new delivery point under its existing service agreement with UGI Corporation in Westmoreland County, Pennsylvania, and the addition of a new delivery point under its existing service agreement with Columbia Gas of Pennsylvania, Inc., in Fayette County, Pennsylvania. Carnegie states that both of the proposed new delivery points already physically exist and are located on the interstate pipeline system of Texas Eastern Transmission Corporation (Texas Eastern). Carnegie does not request authorization to construct or operate any facilities in relation to the proposed new delivery points. Texas Eastern concurrently has filed a related application in Docket No. CP92-172-000.

Carnegie states that the total contract quantities under the respective service agreements would not be changed by the addition of the delivery points. Carnegie also states that its tariff permits the addition of delivery points.

Comment date: December 30, 1991, in accordance with Standard Paragraph G at the end of this notice.

8. Texas Eastern Transmission Corporation

[Docket No. CP92-172-000]

November 13, 1991.

Take notice that on November 12, 1991, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP92-172-000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to add to additional existing delivery points to an existing service agreement with Carnegie Corporation (Carnegie) under Texas Eastern's blanket certificate issued in docket No. CP82-535-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Texas Eastern proposes to add two additional existing delivery points to an existing service agreement dated April 12, 1990, with Carnegie providing for storage service under Rate Schedule SS-2 of Texas Eastern's FERC Gas Tariff, Fifth Revised Volume No. 1. Texas Eastern states that the existing delivery points to be added are (1) Delmont Delivery Point, located in Westmoreland County, Pennsylvania, and designated as Texas Eastern's Station 055, and (2) Uniontown Delivery Point, which is located in Fayette County, Pennsylvania, and designated as Texas Eastern's Station 056. Texas Eastern explains that no new facilities would be required in order to provide the service. Carnegie concurrently has filed a related application in Docket No. CP 92-173-000.

It is stated that the November 5, 1991, superseding service agreement establishes a Maximum Daily Delivery Obligation (MDDO) at each point to be 21,000 Dth per day. It is further stated that there would be no change in MDDO at the other existing delivery points in the superseding service agreement, nor any increase in the total contract quantities.

Texas Eastern states that the additional storage and delivery service to the existing delivery points would have no effect on Texas Eastern's peak day or annual deliveries. Texas Eastern explains that to the extent deliveries are made at the two delivery points, deliveries may be reduced at the other points of delivery to Carnegie on a day-to-day operational basis. Therefore, it is stated, the additional volumes of gas to the SS–2 Service Agreement as proposed would not result in any change in the total contract quantities deliverable under the individual service agreement providing for service to Carnegie pursuant to Texas Eastern's Rate Schedule SS–2. Texas Eastern submits that its proposal would be accomplished without detriment or disadvantage to Texas Eastern's other customers.

Further, Texas Eastern states that the service it renders to Carnegie would be performed pursuant to Rate Schedule SS–2 of Texas Eastern's FERC Gas Tariff, Fifth Revised Volume No. 1 and that Texas Eastern's existing tariff does not prohibit the additional volumes.

Comment date: December 30, 1991, in accordance with Standard Paragraph G at the end of this notice.

9. Northern Natural Gas Company

Docket No. CP92–139–000

November 14, 1991.

Take notice that on October 31, 1991, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP92–139–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation and maintenance of three existing delivery points and appurtenant facilities as delivery points for jurisdictional service under a GS–1 Service Agreement and an increase in the level of GS–1 sales entitlements for Midwest Natural Gas, Inc. (Midwest Natural) from 4,190 Mcf per day to 5,500 Mcf per day, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is alleged that the three existing delivery points which Northern is requesting authority to operate for jurisdictional service under section 7(c) of the NGA were originally installed and operated by Northern pursuant to Section 311 of the Natural Gas Policy Act and § 284.3(c) of the Commission's Regulations and are currently restricted for section 311 transportation service.

The three delivery points that Northern proposes to operate on an unrestricted basis are located in Galesville, Wisconsin; North Hudson, Wisconsin; and East Farmington, Wisconsin. To provide service to these towns, Midwest Natural requests an increase in its currently authorized sales entitlements of 1,310 Mcf per day, under Northern's GS–1 Rate Schedule, beginning with the 1992–1993 heating season.

It is explained that Northern and Midwest Natural entered into a new GS–1 Service Agreement, dated July 26, 1991, providing for the increased level of service proposed in the application. The new Service Agreement would become effective on September 15, 1991, or on the date of the Commission's order in this proceeding, whichever is later, and shall continue in effect through October 1, 1993. Northern contends that the proposed service does not require construction or arrangement of its presently authority to provide the increased delivery of natural gas. Northern alleges that certification of the three existing delivery points and the requested sales entitlement increase, would enable Midwest Natural to serve a new market as described in the application. It is further alleged that this proposal would enable Midwest Natural to meet its contractual and public service obligations to its customers.

Comment date: December 5, 1991, in accordance with Standard Paragraph F at the end of this notice.

10. Northern Natural Gas Company

[Docket No. CP92–155–000]

November 14, 1991.

Take notice that on November 8, 1991, Northern Natural Gas Company (Northern), P.O. Box 3330, Omaha, Nebraska 68103-0330, filed in Docket No. CP92–155–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon by removal a town border station serving Sioux Falls, South Dakota, under Northern's blanket certificate issued in Docket No. CP82–401–000, all as more fully described in the application which is on file with the Commission and open to public inspection.

Northern proposes to abandon by removal the Sioux Falls No. 1B TBS located in Minnehaha County, South Dakota, because the facility is no longer required. It is stated that the function of the Sioux Falls No. 1B TBS has been replaced by the Sioux Falls No. 1 TBS. It is explained that the facility proposed for abandonment was installed in 1966 to provide service to a new housing development pursuant to Commission authorization in Docket No. CP66–98. It is asserted that the proposed abandonment would not result in the abandonment of service to any of Northern's existing customers.

Comment date: December 30, 1991, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed with the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the

time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27971 Filed 11-20-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. OR92-1-000]

Enterprise Products Co. v. Mid-America Pipeline Co.; Complaint

November 14, 1991.

Take notice that on November 7, 1991, Enterprise Products Company (Enterprise) filed a complaint against Mid-America Pipeline Company (MAPCO) pursuant to Rule 206 of the Commission's Rules of Practice and Procedure and 49 U.S.C. app. 13 (1988). Enterprise seeks emergency relief from the Commission directing MAPCO to immediately stop allocating constrained capacity on its natural gas liquids pipeline between Conway, Kansas, and Mont Belvieu, Texas, based on its current formula. Enterprise alleges discriminates against new customers in violation of Section 3(1) of the Interstate Commerce Act, 49 U.S.C. App. 3(1) (1988).

Enterprise requests that the Commission immediately order MAPCO to: (i) Cease allocating capacity based on tenders during the last twelve months; (ii) allocate its pipeline capacity using a formula based on either current nominations or, alternatively, annualized shipments, at least for contract customers who have not used MAPCO's pipeline for a full year; and (iii) ship to Enterprise during November and December 1991 the volumes it would have received during October under a non-discriminatory allocation formula.

Enterprise also requests that the Commission adopt expedited procedures to facilitate emergency relief in this action, and grant any other relief the Commission deems appropriate to resolve this complaint.

Any person desiring to be heard or to protest said complaint should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214 and 385.211. All such motions or protests should be filed on or before December 16, 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. Answers to this complaint shall also be due on or before December 16, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27973 Filed 11-20-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-4-4-000]

Granite State Gas Transmission, Inc.; Proposed Changes in Rates

November 14, 1991.

Take notice that on November 8, 1991, Granite State Gas Transmission, Inc. (Granite State), 300 Friberg Parkway, Westborough, Massachusetts 01581 filed the tariff sheets listed below in its FERC Gas Tariff, Second Revised Volume No. 1, proposing changes in rates:

Fourth Revised Sheet No. 24A
Third Revised Sheet No. 149

Granite State proposes an effective date of December 8, 1991 for the above listed tariff sheets.

Granite State states that its filing flows through to its customers revised take-or-pay buydown and buyout costs that will be directly billed to Granite State by Algonquin Gas Transmission Company (Algonquin). According to Granite State, Algonquin filed revised tariff sheets on October 24, 1991, in Docket No. TM92-4-20-000 to passthrough to Granite State its share of take-or-pay costs allocated to Algonquin by its upstream suppliers, CNG Transmission Corporation and National Fuel Gas Corporation. Granite State further states that it has previously established in Docket No. RP91-122-000 the tariff procedures for flowing through the Algonquin take-or-pay costs in compliance with Order No. 528-A and the procedure for allocating the Algonquin directly billed costs are consistent with its approved tariff procedures.

According to Granite State, the take-or-pay costs in its filing will be billed to its jurisdictional customers, Bay State Gas Company and Northern Utilities, Inc., and to a direct sales customer, Pease Air Force Base. Granite State further states that copies of its filings were served on 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 sections 211 and 214 of the Commission's Rules of Practice and Procedure 18 CFR 385.211 and 385.214. All such motions or protests should be filed on or before November 21, 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. 91-27974 Filed 11-20-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-27-000]

Northwest Pipeline Corp.; Changes in FERC Gas Tariff

November 14, 1991.

Take notice that on November 12, 1991, Northwest Pipeline Corporation (Northwest) tendered for filing First Revised Sheet No. 441, as part of its FERC Gas Tariff, First Revised Volume No. 1-A, to be effective December 12, 1991.

Northwest states that the purpose of the filing is to revise Sheet No. 441, in compliance with the Commission's Final Rule in Order No. 537, issued on September 20, 1991, wherein the Commission modified § 284.102, expending the definition of "on behalf of" for Section 311 transportation.

Northwest states that a copy of the filing is being served on Northwest's jurisdictional customer list and affected state regulatory 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 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 November 21, 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. 91-27975 Filed 11-20-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-26-000]

Texas Gas Transmission Corp., Changes in FERC Gas Tariff

November 14, 1991.

Take notice that on November 12, 1991, Texas Gas Transmission Corporation (Texas Gas) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 2-A, the following revised tariff sheets with a proposed effective date of November 20, 1991:

First Revised Sheet Nos. 97 through 99

Texas Gas states that the purpose of the filing is to modify section 15 of the General Terms and Conditions of Texas Gas's Volume No. 2-A tariff to change the notice provision, as respects scheduling daily quantities, from eight working days prior to the end of the preceding month to five working days prior to the end of the preceding month for quantities to be delivered in the following month.

Texas Gas states that a copy of the filing is being served on Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 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 November 21, 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. 91-27976 Filed 11-20-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-3-29-000]

Transcontinental Gas Pipe Line Corporation; Proposed Changes in FERC Gas Tariff

November 14, 1991.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on November 8, 1991 certain revised tariff sheets to Second Revised Volume No. 1 and Third Revised Volume No. 1 of its FERC Gas Tariff included in appendix A attached to the filing.

Transco states that the purpose of the filing is to track rate changes attributable to storage services purchased from Consolidated Natural Gas (CNG) under its Rate Schedule GSS the costs of which are included in the rates and charges payable under Transco's Rate Schedule LSS and storage services purchased from North Penn Gas Company (North Penn) under its Rate Schedule SS the costs of which are included in the rates and charges payable under Transco's Rate Schedule SS-1. The tracking filing is being made pursuant to Section 4 of Transco's Rate Schedule LSS and Section 5 of Transco's Rate Schedule SS-1.

Transco states that copies of the filing are being mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protests 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 November 21, 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. 91-27977 Filed 11-20-91; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 4032-8]

Acid Rain Advisory Committee; Notice of Open Meeting

SUMMARY: In August of 1990, the U.S. Environmental Protection Agency gave notice of the establishment of an Acid Rain Advisory Committee (ARAC) which would provide advice to the Agency on issues related to the development and implementation of the requirements of the acid deposition control title of the Clean Air Act Amendments of 1990.

OPEN MEETING DATES AND ADDITIONAL INFORMATION: Notice is hereby given that the Acid Rain Advisory Committee will hold an open meeting on December 3-4, 1991, at the Ramada Renaissance Hotel, Washington, Dulles, 13869 Park Center Road, Herndon, VA 22071 (703) 478-2900.

At its last meeting, ARAC established four subcommittees covering Allowance System Implementation, Permit and Monitoring Implementation, "Opt-In" Rule Development, and NO_x Rule Development. On December 3, the Allowance System Implementation and Permits and Monitoring Implementation Subcommittees will hold their first meetings. The subcommittees will focus on the identification and resolution of issues associated with the implementation of the Acid Rain Program. The Allowance System Implementation Committee Subcommittee is expected to meet from 11 a.m. to 5 p.m.; The Permits and Monitoring Implementation Subcommittee is expected to meet from 9 a.m. to 5 p.m.

On December 4, these new subcommittees will report their discussions to a meeting of the full committee which will be held from 9 a.m. to 3 p.m. The full committee will also hear reports from the NO_x and "Opt-In" Subcommittees which met previously.

INSPECTION OF COMMITTEE DOCUMENTS: All documents for this meeting, including a more detailed meeting agenda will be publicly available in limited numbers at the meeting. Thereafter, these documents together with related documents prepared for previous ARAC meetings will be available in the EPA Air Docket A-90-39 in room 1500 of EPA headquarters, 401 M Street SW., Washington, DC. Hours of inspection are 8:30 to 12 noon and 1 to 3 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Concerning ARAC or its activities, please contact Mr. Paul Horwitz, designated Federal official to the Committee at (202) 260–9400; fax (202) 260–0892, or by mail at USEPA, Acid Rain Division (ANR 445), Office of Air and Radiation, Washington, DC 20460.

Eileen B. Claussen,

Director, Office of Atmospheric and Indoor Air Programs, Office of Air and Radiation.

[FR Doc. 91–28060 Filed 11–2–91; 8:45 am]

BILLING CODE 6560–50–M

[FRL 4033–N1]

Open Meeting on December 11 and 12, 1991 of the Environmental Financial Advisory Board (EFAB)

The Environmental Protection Agency's Environmental Financial Advisory Board (EFAB) will hold an open meeting of the full Board in Washington, DC on December 11 and 12, 1991. The Advisory Board is chartered with providing authoritative analysis and advice to the EPA Administrator regarding environmental finance issues. The Board will set directions for EFAB and will focus its activities on Agency key themes and priorities, such as state and local capacity, pollution prevention, geographic resources, and market-based incentives.

The meetings will be held in the Diplomat Room of the Omni Shoreham Hotel located at 2500 Calvert Street, NW. The Board will meet on December 11 from 8:30 a.m.–5 p.m. and on December 12 from 9 a.m.–12 p.m.

The meetings will be open to the public. Seating is limited. For further information, please contact Ann Watt, U.S. EPA, on (202) 260–8874.

Dated: November 18, 1991.

John J. Sandy,

Director, Resource Management Division.

[FR Doc. 91–28061 Filed 11–20–91; 8:45 am]

BILLING CODE 6560–50–M

[FRL 4032–9]

Open Meeting on December 10, 1991; Technology Innovation and Economics Committee of the National Advisory Council for Environmental Policy and Technology (NACEPT)

Under Public Law 92463 (The Federal Advisory Committee Act), EPA gives notice of a meeting of the Technology Innovation and Economics (TIE) Committee. The TIE Committee is a standing committee of the National Advisory Council for Environmental Policy and Technology (NACEPT), an advisory committee to the Administrator of the EPA. The meeting will convene December 10, 1991, from 8:30 a.m. to 5 p.m. at the Omni Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC 20006.

The TIE Committee meeting will review the progress, implementation, and status or various reports being prepared for completion in the spring of the TIE Committee. It will also consider new projects and the TIE Committee strategic direction. The December 10 meeting will be open to the public. Written comments will be received and reviewed by the TIE Committee. Additional information may be obtained from David R. Berg or Morris Altschuler at 401 Street, SW. (A–101–F6), Washington, DC 20460, by calling 202–260–9153, or by written request sent by fax at 202–260–6882 or by mail at the above address.

Dated: November 15, 1991.

Abby J. Pirnie,

NACEPT Designated Federal Official.

[FR Doc. 91–28062 Filed 11–20–91; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–48504; FRL–3938–9]

Refractory Ceramic Fibers; Initiation of Priority Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initiation, under section 4(f) of the Toxic Substances Control Act (TSCA), of a priority review of the potential risks to humans from exposure to Refractory Ceramic Fibers (RCFs). In addition, the Environmental Protection Agency's Office of Pesticides and Toxic Substances (OPTS) is taking this opportunity to announce the initiation of a new process for implementing section 4(f) of TSCA within OPTS's existing chemical program. RCFs are the first chemical to be screened by this process.

DATES: Information for review must be submitted before January 6, 1992.

ADDRESSES: Submit written comments, in triplicate, identified by the docket control number OPTS–48504, by mail to: TSCA Public Docket Office (TS–793), Rm. NE–G004, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with the procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter.

FOR FURTHER INFORMATION CONTACT: David J. Kling, Acting Director, Environmental Assistance Division (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–543, 401 M St., SW., Washington, DC. 20460, (202) 260–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: TSCA section 4(f) requires that "... Upon the receipt of (1) any test data required to be submitted under this Act, or (2) any other information available to the Administrator, which indicates to the Administrator that there may be a reasonable basis to conclude that a chemical substance or mixture presents or will present a significant risk of serious or widespread harm to human beings from cancer, gene mutations, or birth defects, the Administrator shall, within the 180 day period beginning on the date of the receipt of such data or information, initiate appropriate action under section 5, 6 or 7 to prevent or reduce to a sufficient extent such risk or publish in the **Federal Register** a finding that such risk is not unreasonable." This notice announces the initiation, under section 4(f) of the Toxic Substances Control Act (TSCA), of a priority review of the potential risks to humans from exposure to refractory ceramic fibers (RCFs).

I. Refractory Ceramic Fibers

RCFs are primarily used for high temperature industrial insulation applications, including thermal blankets for industrial furnaces and vacuum formed parts for specialty products with high temperature tolerances. RCFs are man-made vitreous, non-crystalline fibers. They are produced from molten vitreous material using either kaolin clay or a combination of alumina (Al_2O_3) and silica (SiO_2) as the base raw materials. Zirconia, boria, and other metallic oxides may be added in the process to produce specialty RCFs for specific high temperature applications. The approximate percentages (by weight) may vary as follows: alumina, 20 percent to 80 percent; silica, 20 percent to 80 percent; zirconia, 0 percent to 20 percent; and other oxides in lesser amounts (approximately 1 percent to 5 percent, depending upon the manufacturer). Non-continuous fibers are processed by the attenuation of the

molten material by one of two different methods, spinning or blowing.

A. Hazard and Exposure

Chronic inhalation studies in hamsters and rats indicate the potential of RCFs to cause lung and pleural fibrosis. Also, increased incidences of pleural mesothelioma and lung neoplasms were seen in the hamsters and rats, respectively. The results of an interim report of an ongoing multiple dose lifetime inhalation study in rats also indicate that alumina silicate RCFs causes dose-related nonmalignant pleural and pulmonary changes in rats.

Based on the data submitted from industry and in the available literature, exposures to RCFs ranges from 0.01 to 6.4 fibers per cubic centimeter (f/cc) for manufacturing, 0.02 to 56 f/cc for processing and 0.01 to 25 f/cc for use. A more detailed occupational exposure study sponsored by the RCFs industry is in progress and results are expected to be available in the near future. All information available to the Agency on RCFs hazard and exposure is contained in the administrative record established in support of this notice.

B. Section 4(f) Finding

Based on the preliminary hazard and exposure information available, EPA has determined that, in accordance with section 4(f) of TSCA, there may be a reasonable basis to conclude that RCFs present or will present a significant risk of serious harm to human beings from cancer. Accordingly, EPA has initiated a priority review of the potential risks to humans from exposure to RCFs.

During the next 180 days, the Agency will conduct a more thorough review of the data available, including hazard and exposure information pertaining to all aspects of RCFs manufacturing, use, and disposal. Information submitted in response to this **Federal Register** notice will also be included in the review. Based upon the results of this review, the Agency will, within 180 days, either initiate action under section 5, 6, or 7 of TSCA to prevent or reduce such risks to a sufficient extent or publish a finding that such risk is not unreasonable. If it is determined that action under section 5, 6, or 7 is appropriate, a formal peer review of the risks of RCF will be conducted through the regulatory process.

C. Ongoing Activities - Industry and Federal Agencies

1. *Industry.* The Agency is aware that the major manufacturers of RCFs have developed a comprehensive product stewardship program aimed at reducing workplace exposures to RCFs. The Agency is encouraged by this timely action, and recommends that these programs seek to reduce exposures to RCFs to the lowest achievable level.

In addition to exposure reduction activities, RCFs manufacturers have cooperated extensively in EPA's investigation of risks associated with RCFs. This cooperation includes three ongoing industry sponsored studies: a multi-dose rat inhalation study, an end-user exposure study, and an ambient air sampling program. The manufacturers of RCFs have also submitted extensive information regarding RCFs production, uses, and exposure. In spite of this ongoing work, the Agency has concluded that the hazard and exposure data available indicate that RCFs meet the criteria established in section 4(f) of TSCA.

The Agency recognizes the fact that a major segment of the RCF industry has worked diligently to monitor and reduce RCF exposure levels both in the manufacturing and end-use of the product. In addition, these manufacturers have conducted, and reported on a series of thorough inhalation oncogenicity studies, and has provided the Agency with invaluable information concerning RCF exposure levels and workplace applications. The Agency commends this level of cooperation, and plans to continue working with industry to develop additional information and to reduce workplace exposures.

2. *Federal Agencies.* EPA has been advised that the Occupational Safety and Health Administration (OSHA) is currently developing a permissible exposure limit (PEL) for RCFs as part of the PEL update project. EPA's priority review should provide support for any action taken by OSHA to reduce workplace exposures to RCFs.

Based on the hazard information available, EPA recommends that RCFs should be used only when worker protection practices are followed. Such work practices could include: careful handling to minimize the creation of dust; use of local exhaust ventilation to capture dust; use of vacuum cleaners with HEPA filters to capture dust; use of wet methods to control dust; prompt disposal of waste material to avoid creation of dust; and, prohibitions of high exposure work practices such as dry sweeping, use of compressed air for cleanup, and use of unventilated power tools.

D. Administrative Record

EPA has established an administrative record in support of this notice (docket control number OPTS–48504). The record contains all information on RCFs submitted to the Agency under section 8(e) of TSCA. The record is available in the TSCA Public Docket Office from 8 a.m. to 4 p.m., Monday through Friday excluding legal holidays. The TSCA Public Docket Office is located at EPA Headquarters, Rm. NE–G004, Washington DC.

II. Section 4(f) Process

EPA is also taking this opportunity to announce the development of a new process for implementing section 4(f). EPA's Office of Toxic Substances (OTS) has recently taken steps to revitalize its existing chemicals program. Revitalization has involved, among other things, establishing an integrated process for handling chemicals under review in a timely manner. The purpose of this process is to ensure that initiation and completion of analyses, decisions on risk management options, and regulatory actions are taken in a reasonable period of time.

As part of the revitalization effort and in recognition of the need to effectively implement section 4(f), EPA has developed a process for handling chemicals which are potential section 4(f) candidates. Data or information on a chemical received by OTS which indicate a risk of cancer, gene mutations, or birth defects will make the chemical a priority for screening. During screening, hazard information on the chemical will be reviewed and, if at the conclusion of screening, the chemical is identified as a potential section 4(f) candidate, it will be reviewed on a priority basis for a decision as to whether it meets the criteria for action under section 4(f). At this point, all available information on the chemical would be reviewed for determining the significance of the risk of cancer, gene mutations, or birth defects. After this expedited review, the case would be presented to the Assistant Administrator for the Office of Pesticides and Toxic Substances for a determination as to whether EPA has sufficient information to find that the chemical meets the criteria for action under section 4(f). EPA believes that this process, from beginning of screening to a section 4(f) determination, should take approximately 6 months.

In addition, EPA believes that there are some chemicals which present a major risk concern from endpoints other than cancer, mutations, or birth defects. These chemicals should also receive the equivalent high priority for review and risk management decisions, although they do not meet the precise criteria for section 4(f). Examples include neurotoxicity or ecological effects.

Therefore, EPA is committed to applying this expedited review process to all chemicals that present or will present a significant risk of serious or widespread harm to humans or the environment from any endpoint of concern.

Dated: November 12, 1991.

William K. Reilly,

Administrator.

[FR Doc. 91-28065 Filed 11-20-91; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL DEPOSIT INSURANCE CORPORATION

Coastal Barrier Improvement Act: Property Availability; M-Pal 1, Inc.

AGENCY: Notice Deposit Insurance Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Legal Description:

A parcel of land lying in Section 26 and 27, Township 40 South, Range 40 East, Martin County, Florida; said parcel of land being more particularly described as follows: Commencing at the Northwest corner of said Section 27; thence, North 88°45'23" East, along the North line of said Section 27, a distance of 3,484.24 feet for a point of Beginning (P.O.B.); Thence, continue North 88°45'23" East, along said North line, a distance of 1,780.09 feet to the Northeast corner of said Section 27; thence, North 89°14'32" East, along the North line of said Section 26, a distance of 5,408.31 feet to the Northeast corner of said Section 26; thence, South 00°34'22" East, along the East line of said Section 26, a distance of 3,804.06 feet to the intersection thereof with the centerline of that certain canal as recorded in Official Records Book 390, Pages 2175 through 2177, inclusive, Public Records, Martin County, Florida; said point of intersection being a point on a curve concave Northeasterly, having a radius of 6,446.95 feet and whose radius point bears North 00°28'49" East; thence, Northwesterly along said curve and along said canal centerline, through a central angle of 38°44'39", a distance of 4,359.51 feet to the point of tangency; thence, North 50°46'32" West, continuing along said canal centerline, a distance of 259.11 feet to the point of tangency of a curve to the left, having a radius of 4,920.61 feet; thence, Northwesterly along side curve and continuing along said canal centerline, through a central angle of 16°11'35"", a distance of 1,390.67 feet to the point of tangency; thence, North 66°58'07" West, continuing along said centerline, a distance of 701.19 feet to the point of tangency of a curve to the left having a radius of 8,834.48 feet; thence, Northwesterly along said curve and continuing along said centerline, through a central angle of 07°55'32", a distance of 1,222.06 feet; thence, North 01°20'59" West, departing said centerline, a distance of 687.84 feet to the Point of Beginning (P.O.B.). Containing 403.64 acres. Located in the State of Florida, is affected by Section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

SUPPLEMENTARY INFORMATION: Characteristics of the property include: Classification as 50% wetlands; adjacent to State preservation area. Four endangered species are known to habitat on the property: Specifically the Wood Storks, Eagles, Red Cockaded, Woodpecker and Snail Kite.

Property size: 403.64 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before February 19, 1992 by Ed Chandler, Federal Deposit Insurance Corporation, P.O. Box 30060, Shreveport, Louisiana, 71130-0600, Telephone 1-800-283-3342, Fax (318) 683-7388.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;

2. Agencies or entities of State or local government; and

3. "Qualified organization" pursuant to section 170(h) of the Internal Revenue Code of 1986 [26 U.S.C. 170(h)(s)].

Written notices of serious interest to purchase or effect other transfers of the property must be submitted to Ed Chandler, Federal Deposit Insurance Corporation, P.O. Box 30060, Shreveport, Louisiana, 71130-0600, Telephone 1-800-283-3342, Fax (318) 683-7388 in the following form: Notice of Serious Interest RE: Legal Description: A parcel of land lying in Section 26 and 27, Township 40 South, Range 40 East, Martin County, Florida; said parcel of land being more particularly described as follows: Commencing at the Northwest corner of said Section 27; thence, North 88°45'23" East, along the North line of said Section 27, a distance of 3,484.24 feet for a Point of Beginning (P.O.B.); Thence, continue North 88°45'23" East, along said North line, a distance of 1,780.09 feet to the Northeast corner of said Section 27; thence, North 89°14'32" East, along the North line of said Section 26, a distance of 5,408.31 feet to the Northeast corner of said Section 26; thence, South 00°34'22" East, along the East line of said Section 26, a distance of 3,804.06 feet to the intersection thereof with the centerline of that certain canal as recorded in Official Records Book 390, Pages 2175 through 2177, inclusive, Public Records, Martin County, Florida; said point of intersection being a point of a curve concave Northeasterly, having a radius of 6,446.95 feet and whose radius point bears North 00°28'49" East; thence, Northwesterly along, said curve and along said canal centerline, through a central angle of 38°44'39", a distance of 4,359.51 feet to the point of tangency; thence, North 50°46'32" West, continuing along said canal centerline, a distance of 259.11 feet to the point of tangency of a curve to the left, having a radius of 4,920.61 feet; thence, Northwesterly along said curve and continuing along said canal centerline, through a central angle of 16°11'35", a distance of 1,390.67 feet to the point of tangency; thence, North 66°58'07" West, continuing along said centerline, a distance of 701.19 feet to the point of tangency of a curve to the left having a radius of 8,834.48 feet; thence, Northwesterly along said curve and continuing along said centerline, through a central angle of 07°55'32", a distance of 1,222.06 feet; thence, North 01°20'59" West, departing said centerline, a distance of 687.84 feet to the Point of Beginning (P.O.B.). Containing 403.64 acres.

1. Entity name.

2. Declaration of eligibility to submit Notice under criteria set forth in Public Law 101-591, section 10(b)(2).

3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).

4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 91-27962 Filed 11-20-91; 8:45 am]

BILLING CODE 6714-01-M

Coastal Barrier Improvement Act: Property Availability; Mar Palm Ranch/ Indiantown Road

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as—

Legal Description

A parcel of land lying in Sections 34 and 35, Township 40 South, Range 40 East, Palm Beach County, Florida; said

parcel of land being more particularly described as follows:

Commencing at the Northwest corner of said Section 34; thence, North 89°02'29" East, along the North line of said Section 34 and along the North boundary of Palm Beach County, a distance of 2,735.20 feet for a Point of Beginning (P.O.B);

Thence, continue North 89°02'29" East, along said North lines, a distance of 2,652.97 feet to the Northwest corner of said Section 35; thence, North 89°03'33" East, along the North line of said Section 35 and along the North boundary of Palm Beach County, a distance of 5,325.99 feet to the Northeast corner of said Section 35; thence, South 00°18'05" East, along the East line of said Section 35, a distance of 5,176.05 feet to the intersection thereof with the North right-of-way line of Indiantown Road; thence, South 89°17'47" West, along said North right-of-way line, a distance of 7,412.96 feet; thence, North 00°42'13" West, a distance of 425.61 feet; thence, North 35°02'35" West, a distance of 840.01 feet; thence, North 13°24'35" West, a distance of 265.45 feet; thence, North 00°39'50" West, a distance of 146.83 feet; thence, South 89°17'47" West, a distance of 33.21 feet; thence, North 13°24'35" West, a distance of 5.54 feet; thence, North 00°43'17" West, a distance of 313.98 feet; thence, North 21°29'48" East, a distance of 498.62 feet; thence, North 38°09'02" West, a distance of 171.47 feet; thence, South 54°39'18" West, a distance of 365.56 feet; thence, North 43°17'47" East, a distance of 362.53 feet; thence, North 00°39'50" West, a distance of 725.95 feet; thence, North 41°09'44" East, a distance of 258.67 feet; thence, North 77°03'16" West, a distance of 177.49 feet; thence, North 00°39'50" West, a distance of 155.20 feet; thence, North 88°39'36" East, a distance of 89.05 feet; thence, North 00°57'31" West, a distance of 1330.63 feet; to the Point of Beginning (P.O.B.). Containing 929.48 acres, more or less. Located in the State of Florida, is affected by Section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

SUPPLEMENTARY INFORMATION: Characteristics of the property include: Classification as 50% wetlands; adjacent to State preservation area. Four endangered species are known to habitat on the property: specifically the Wood Storks, Eagles, Red Cockaded, Woodpecker and Snail Kite.

Property size: 929.48 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before February 19, 1992 by Ed Chandler, Federal Deposit Insurance Corporation, P.O. Box 30060, Shreveport, Louisiana, 71130-0600, Telephone 1-800-283-3342, Fax (318) 683-7388.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;

2. Agencies or entities of State or local government; and

3. "Qualified organization" pursuant to section 170(h) of the Internal Revenue Code of 1986 [26 U.S.C. 170(h)(5)].

Written notices of serious interest to purchase or effect other transfers of the property must be submitted to Ed Chandler, Federal Deposit Insurance Corporation, P.O. Box 30060, Shreveport, Louisiana, 71130-0600, Telephone 1-800-283-3342, Fax (318) 683-7388 in the following form:

Notice of Serious Interest RE

Legal Description: A parcel of land lying in Sections 34 and 35, Township 40 South, Range 40 East, Palm Beach County, Florida; said parcel of land being more particularly described as follows:

Commencing at the Northwest corner of said Section 34; thence, North 89°02'29" East, along the North line of said Section 34 and along the North boundary of Palm Beach County, a distance of 2,735.20 feet for a Point of Beginning. (P.O.B.);

Thence, continue North 89°02'29" East, along said North lines, a distance of 2,652.97 feet to the Northwest corner of said Section 35; thence, North 89°03'33" East, along the North line of said Section 35 and along the North boundary of Palm Beach County, a distance of 5,325.99 feet to the Northeast corner of said Section 35; thence, South 00°18'05" East, along the East line of said Section 35, a distance of 5,176.05 feet to the intersection thereof with the North right-of-way line of Indiantown Road; thence, South 89°17'47" West, along said North right-of-way line, a distance of 7,412.96 feet; thence, North 00°42'13" West, a distance of 425.61 feet; thence, North 35°02'35" West, a distance of 840.01 feet; thence, North 13°24'35" West, a distance of 265.45 feet; thence, North 00°39'50" West, a distance of 146.83 feet; thence, South 89°17'47" West, a distance of 33.21 feet; thence, North 13°24'35" West, a distance of 5.54 feet; thence, North 00°43'17" West, a distance of 313.98 feet; thence, North 21°29'48" East, a distance of 498.62 feet; thence, North 38°09'02" West, a distance of 171.47 feet; thence, South 54°39'18" West, a distance of 365.56 feet; thence, North 43°17'47" East, a distance of 362.53 feet; thence, North 00°39'50" West, a distance of 725.95 feet; thence, North 41°09'44" East, a distance of 258.67 feet; thence, North 77°03'16" West, a distance of 177.49 feet; thence, North 00°39'50" West, a distance of 155.20 feet; thence, North 88°39'36" East, a distance of 89.05 feet; thence, North 00°57'31" West, a distance of 1,330.63 feet; to the Point of Beginning (P.O.B.). Containing 929.48 acres, more or less.

1. Entity name.

2. Declaration of eligibility to submit Notice under criteria set forth in Public Law 101-591, section 10(b)(2).

3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).

4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson

Executive Secretary.

[FR Doc. 91-27963 Filed 11-20-91; 8:45 am]

BILLING CODE 6714-01-M

Coastal Barrier Improvement Act: Property Availability; Tin Mar

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as— .

Legal Description:

A parcel of land lying in Section 26 and 27, Township 40 South, Range 40 East, Martin County, Florida; said parcel of land being more particularly described as follows:

Commencing at the Southwest Corner of said Section 27; thence, North 89°02'29" East, along the South line of said Section 27 and along the South boundary line of Martin County, a distance of 3427.31 feet for a POINT OF BEGINNING;

Thence continue North 89°02'29" East, along said South lines, a distance of 1878.67 feet to the Southwest corner of said Section 26; thence, North 89°03'33" East, along the South line of said Section 26 and along the South line of said Martin County, a distance of 6325.99 feet to the Southeast corner of said Section 26; thence, North 00°34'22" West, along the East line of said Section 26, a distance of 1490.20 feet to the intersection thereof with the centerline of that certain canal as recorded in Official Records Book 390, Pages 2176 through 2177, inclusive, Public Records, Martin County, Florida; said Point of Intersection being a Point on a curve concave Northeasterly, having a radius

of 6446.95 feet and whose radius point bears North 00°28'49" East; thence, Northwesterly along said curve and along said canal centerline, through a central angle of 38°44'39", a distance of 4359.51 feet to the Point of Tangency; thence, North 50°46'32" West, continuing along said canal centerline, a distance of 259.11 feet to the Point of Tangency of a curve to the left, having a radius of 4920.61 feet; thence, Northwesterly along said curve and continuing along said canal centerline, through a central angle of 16°11'35", a distance of 1390.67 feet to the Point of Tangency; thence, North 66°58'07" West, continuing along said centerline, a distance of 701.19 feet to the Point of Tangency of a curve to the left having a radius of 8834.48 feet; thence, Northwesterly along said curve and continuing along said centerline, through a central angle of 08°34'55", a distance of 1323.28 feet; thence, South 01°27'42" East, departing said canal centerline, a distance of 4642.39 feet to the POINT OF BEGINNING. Containing 477.09 Acres. Located in the State of Florida, is affected by Section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

SUPPLEMENTARY INFORMATION:

Characteristics of the property include: Classification as 50% wetlands; adjacent to State preservation area. Four endangered species are know to habitat on the property: specifically the Wood Stocks, Eagles, Red Cockaded, Woodpecker and Snail Kite.

Property size: 477.09 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before February 19, 1992 by Ed Chandler, Federal Deposit Insurance Corporation, P.O. Box 30060, Shreveport, Louisiana, 71130–0600, Telephone 1–800–283–3342, Fax (318) 683–7388.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;

2. Agencies or entities of State or local government; and

3. "Qualified organization" pursuant to section 170(h) of the Internal Revenue Code of 1986 [26 U.S.C. 170(h) (s)].

Written notices of serious interest to purchase or effect other transfers of the property must be submitted to Ed Chandler, Federal Deposit Insurance Corporation, P.O. Box 30060, Shreveport, Louisiana, 71130–0600, Telephone 1–800–283–3342, Fax (318) 683–7388 in the following form:

Notice of Serious Interest RE:

Legal Description: A parcel of land lying in Section 26 and 27, Township 40 South, Range 40 East, Martin County, Florida; said parcel of land being more particularly described as follows:

Commencing at the Southwest Corner of said Section 27; thence, North 89°02'29" East, along the South line of said Section 27 and along the South boundary line of Martin County, a distance of 3427.31 feet for a POINT OF BEGINNING;

Thence continue North 89°02'29" East, along said South lines, a distance of 1878.67 feet to the Southwest corner of said Section 26, thence, North 89°03'33" East, along the South line of said Section 26 and along the South line of said Martin County, a distance of 6325.99 feet to the Southwest corner of said Section 26; thence, North 00°34'22" West, along the East line of said Section 26, a distance of 1490.20 feet to the intersection thereof with the centerline of that certain canal as recorded in Official Records Book 390, Pages 2176 through 2177, inclusive, Public Records, Martin County, Florida; said Point of Intersection being a Point on a curve concave Northeasterly, having a radius of 6446.95 feet and whose radius point bears North 00°28'49" East; thence, Northwesterly along said curve and along said canal centerline, through a central angle of 38°44'39", a distance of 4359.51 feet to the Point of Tangency; thence, North 50°46'32" West, continuing along said canal centerline, a distance of 259.11 feet to the Point of Tangency of a curve to the left, having a radius of 4920.61 feet; thence, Northwesterly along said curve and continuing along said canal centerline, through a central angle of 16°11'35", a distance of 1390.67 feet to the Point of Tangency; thence, North 66°58'07" West, continuing along said centerline, a distance of 701.19 feet to the Point of Tangency of a curve to the left having a radius of 8834.48 feet; thence, Northwesterly along said curve and continuing along said centerline, through a central angle of 08°34'55", a distance of 1323.28 feet; thence, South 01°27'42" East, departing said canal centerline, a distance of 4642.39 feet to the POINT OF BEGINNING. Containing 477.09 Acres.

1. Entity name.

2. Declaration of eligibility to submit Notice under criteria set forth in Public Law 101–591, section 10(b)(2).

3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).

4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 91–27964 Filed 11–20–91; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL ELECTION COMMISSION

Clearinghouse on Election Administration; Meeting

In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. app. I) and Office of Management and Budget Circular A–63, as revised, the Federal Election Commission announces the following Advisory Panel meeting.

Name: Federal Election Commission Clearinghouse Advisory Panel.

Date: 15–17 December 1991.

Place: Hotel Nikko, 222 Mason St, San Francisco, CA.

Time:

1500–1730 on 15 December 1991
0830–1200; 1330–1700 on16 December 1991
0830–1200; 1400–1700 on 17 December 1991

Proposed Agenda

Political Patronage; Polling Place Accessibility: The Impact of the Americans With Disabilities Act; Election Case Law; Contested Elections & Recounts: State, Federal and Adversarial Perspectives; Innovations in Election Administration; News Interview Survival: What Reporters Expect From You; The Initiative Process; Voting Rights Act & Redistricting; and Easier Absentee Voting: Pros & Cons.

Purpose of the Meeting

The Panel will present their views on problems in the administration of Federal elections, and formulate recommendations to the Federal Election Commission Clearinghouse for its future program development.

The Advisory Panel meeting is open to the public, dependent on available space. Attendees to all sessions must pay $120.00 in registration fees. Any member of the public may file a written statement with the Panel before, during or after the meeting. To the extent that time permits, the Panel Chairman may allow public presentation or oral statements at the meeting.

All communications regarding the Advisory Panel should be addressed to Penelope Bonsall, National Clearinghouse on Election Administration, Federal Election Commission, 999 E Street NW. Washington DC 20463.

Dated: November 14, 1991.

Majorie W. Emmons,

Secretary to the Commission.

[FR Doc. 91-27946 Filed 11-20-91; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL; APPRAISAL SUBCOMMITTEE

Agency Form Submitted for OMB Review

AGENCY: Appraisal Subcommittee, Federal Financial Institutions Examination Council.

ACTION: Notice.

SUMMARY: The Appraisal Subcommittee ("ASC") of the Federal Financial Institutions Examination Council ("FFIEC") has sent to the Office of Management and Budget ("OMB") the following proposal for the collection of information under the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Comments on this information collection must be received on or before December 23, 1991.

ADDRESSES: Send comments to Paul N. Romani, Associate Director for Administration; Appraisal Subcommittee; 1776 G Street, NW., suite 850B; Washington, DC 20006 and Gary Waxman, Clearance Officer, Office of Management and Budget, New Executive Office Building, room 3228; Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Paul N. Romani, Associate Director for Administration; Appraisal Subcommittee; 1776 G Street, NW., suite 850B; Washington, DC 20006, or at (202) 357-0133, from whom copies of the information collection and supporting documents are available.

Summary of Proposal(s)

(1) *Collection title:* Proposal Rule 1102, Temporary Waiver Procedures.

(2) *Form(s) submitted:* Not applicable.

(3) *Frequency of collection:* On occasion.

(4) *Use:* Requests for temporary waiver relief under section 1119(b) of title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, 12 U.S.C. 3348(b) (1990).

(5) *Estimated number of respondents:* 15.

(6) *Frequency of response:* Once.

(7) *Estimated hours for respondents to provide information:* 3 hours per respondent.

(8) *Estimated total annual reporting and recordkeeping burden:* 45 hours.

Dated: November 15, 1991.

Edwin W. Baker,

Executive Director.

[FR Doc. 91-27990 Filed 11-20-91; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89-777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Compagnie Francaise de Croisieres,
c/o Ocean Cruise Lines, Inc.,
1510 S.E. 17th Street,
Ft. Lauderdale, FL 33316.

Vessel: Ocean Princess.

Dated: Novermber 15, 1991.

Joseph C. Polking,

Secretary.

[FR Doc. 91-28021 Filed 11-20-91; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 91-53]

Safbank Line Limited v. Ohio Valley Polymers, Inc.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Safbank Line Limited ("Complainant") against Ohio Valley Polymers, Inc. ("Respondent") was served November 15, 1991. Complainant alleges that Respondent engaged in violations of action 10(a)(1) of the Shipping Act of 1984, 46 U.S.C. 1709(A)(1), by failure to remit ocean freight and other charges due and payable, notwithstanding demands for payment by Complainant.

This proceeding has been assigned to Administrative Law Judge Charles E. Morgan ("Presiding Officer"). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by November 16, 1992, and the final decision of the Commission shall be issued by March 16, 1993.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 91-28022 Filed 11-20-91; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 91-52]

A.P. Moller d/b/a Maersk Line v. Erickson & Remmert; Filing of Complaint and Assignment

Notice is given that a complaint filed by A.P. Moller d/b/a Maersk Line ("Complainant") against Erickson & Remmert ("Respondent") was served November 14, 1991. Complainant alleges that Respondent engaged in violations of section 10(a)(1) of the Shipping Act of 1984, 46 U.S.C. 1709(a)(1), by failing to pay applicable ocean freight and other charges lawfully assessed pursuant to the applicable tariff on two containers, said to contain an aircraft simulator and accessorial equipment, shipped from Hong Kong to Long Beach, California.

This proceeding has been assigned to Administrative Law Judge Norman D. Kline ("Presiding Officer"). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by November 16, 1992, and the final decision of the Commission shall be issued by March 16, 1993.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 91-27968 Filed 11-20-91; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

November 13, 1991.

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, "to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following forms, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority.

DATES: Comments must be submitted on or before December 4, 1991.

ADDRESSES: Comments, which should refer to the OMB Docket number (or Agency form number in the case of a new information collection that has not yet been assigned an OMB number), should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or delivered to room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.8(a) of the Board's Rules Regarding Availability of Information. 12 CFR 261.8(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed forms, the request for clearance (SF 83), supporting statement, instructions, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below. Federal Reserve Board Clearance Officer—Frederick J. Schroeder—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3829).

Proposal to Approve Under OMB Delegated Authority the Extension, With Revisions of the Following Reports

1. *Report title:* Report of Condition for Foreign Subsidiaries of U.S. Banking Organizations.

Agency form number: FR 2314 a, b and c.

OMB Docket Number: 7100-0073.

Frequency: Quarterly and annually.

Reporters: Foreign subsidiaries of U.S. Banks, bank holding companies, and edge and agreement corporations.

Annual reporting hours: 4098.

Estimated average hours per response: 1.00 to 4.00.

Number of respondents: 1192.

Small businesses are not affected.

General description of report:

This information collection is mandatory [12 U.S.C. § 324, 602, 625 and 1844(c)] and is given confidential treatment [5 U.S.C. 552(b)(8)].

The reports collect information on the assets, liabilities, off-balance sheet items, and earnings from all direct or indirect foreign subsidiaries of U.S. banking organizations. The data are used to monitor the growth and activities of the subsidiaries and to supervise the overall operation of the parent organization. The proposed revisions are designed to make the reports more consistent with the parent organizations' reports of condition and income and to improve the System's surveillance of overseas banking operations.

Board of Governors of the Federal Reserve System, November 13, 1991.

William W. Wiles,

Secretary of the Board.

[FR Doc. 91-28004 Filed 11-20-91; 8:45 am]

BILLING CODE 6210-01-M

Steven L. Afdahl, 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 December 11, 1991.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Steven L. Afdahl, Richard T. Gauck and Larry A. High as trustees of the Merle R. Weaver Trust; to acquire 100 percent of the voting shares of Green Belt Bancorporation, Iowa Falls, Iowa, and thereby indirectly acquire Green Belt Bank & Trust, Iowa Falls, Iowa.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Wayne C. Edwards, Denton, Montana, and A. Clifford Edwards, Billings, Montana; to each acquire 46.47 percent of the voting shares of Farmers State Bank of Denton, Denton, Montana.

2. Terry Gerber, Exeland, Wisconsin, and Franz Gerber, Bruce, Wisconsin; to acquire 70 percent of the voting shares of Cameron Bancorp, Inc., Cameron, Wisconsin, and Community Bank of Cameron, Cameron, Wisconsin.

C. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Fai H. Chan, White Rock, British Columbia, Canada; to acquire 100 percent of the voting shares of American Pacific Bank, Aumsville, Oregon.

Board of Governors of the Federal Reserve System, November 15, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-28005 Filed 11-20-91; 8:45 am]

BILLING CODE 6210-01-F

Columbus Bancorp, Inc.; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval

under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 12, 1991.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Columbus Bancorp, Inc., Indianapolis, Indiana; to engage *de novo* through its subsidiary, Flagship Insurance Company, Indianapolis, Indiana, in credit life insurance activities pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y. These activities will be conducted in the State of Indiana.

Board of Governors of the Federal Reserve System, November 15, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-28006 Filed 11-20-91; 8:45 am]

BILLING CODE 6210-01-F

Societe Generale; Paris, France; Application to Conduct Private Placements of All Types of Securities As Agent, Act as "Riskless Principal" and Provide Financial and Investment Advisory Services for Securities-Related Activities

Societe Generale, Paris, France ("Applicant"), has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) ("BHC Act") and section 225.23(a) of the Board's Regulation Y (12 CFR 225.23(a)), to acquire a limited partnership interest in The Lodestar Group International L.P., New York, New York ("Company"), a joint venture among Applicant; Yamaichi International (America) Inc., New York, New York, a wholly-owned subsidiary of Yamaichi Securities Company, Tokyo, Japan; and several private individuals and subchapter S corporations. Company will engage *de novo* in the following activities:

(1) the private placement, as agent, of all types of securities, including providing related advisory services;

(2) providing financial and transaction advice to high net worth individuals and institutions, including

(i) advice and assistance in connection with the identifying, arranging, financing and negotiating of mergers, acquisitions, divestitures, joint ventures, business combinations, leveraged buyouts, recapitalizations, loan syndications, capital structuring, financing and other corporate transactions, and providing ancillary services related to the foregoing activities;

(ii) feasibility studies, principally in the context of determining the financial attractiveness and feasibility of particular corporate transactions and financing transactions;

(iii) valuation services;

(iv) fairness opinions in connection with the activities listed in (i);

(v) ancillary services or functions incidental to the foregoing advisory activities; and

(3) buying and selling all types of securities on the order of investors as "riskless principal".

Company would conduct the proposed activities on a domestic and international basis.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board, after due notice and opportunity for hearing, has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto."

The Board has previously approved the provision of substantially all of the proposed financial and transaction advice, and applicant has proposed to comply with the conditions of the Board's Orders approving the provision of the proposed financial and transaction advice. *See, e.g., Royal Bank of Scotland Group plc*, 76 Federal Reserve Bulletin 866 (1990); *Stichting Amro and Amsterdam-Rotterdam Bank, N.V.*, 76 Federal Reserve Bulletin 682 (1990); *Fuji Bank, Limited*, 75 Federal Reserve Bulletin 577 (1989).

In addition, the Board has previously approved the proposed buying and selling of all types of securities on the order of investors as "riskless principal." *See, e.g., J.P. Morgan & Company Incorporated*, 76 Federal Reserve Bulletin 26 (1990); *Bankers Trust New York Corporation*, 75 Federal Reserve Bulletin 829 (1989). Applicant commits that Company will conduct this proposed activity using substantially the same methods and procedures established by the Board in these Orders.

Finally, Applicant will conduct the proposed investment advisory services subject to the conditions of section 225.25(b)(4) of the Board's Regulation Y (12 CFR 225.25(b)(4)).

Applicant states that the proposed activities will benefit the public by promoting competition and providing added convenience to customers and gains in efficiency.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 13, 1991. Any request for a hearing on this application must, as required by section 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, November 15, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-28007 Filed 11-20-91; 8:45 am]

BILLING CODE 6210-01-F

Tennessee Bancorp, 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 December 12, 1991.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Tennessee Bancorp, Inc., Columbia, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Tennessee National Bank, formerly First Federal Savings and Loan Association, Columbia, Tennessee.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. American Interstate Bancorporation, Inc., Council Bluffs, Iowa; to merge with American Interstate Bancorporation, Inc., Omaha, Nebraska, and thereby indirectly acquire Bank of Elkhorn, Elkhorn, Nebraska.

2. TBOC, Inc., Bettendorf, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of the Quad Cities, Davenport, Iowa, a *de novo* bank.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Central Bancompany, Inc., Jefferson City, Missouri; to acquire at least 67 percent of the voting shares of Third Bancshares Corporation, Sedalia, Missouri, and thereby indirectly acquire Third National Bank of Sedalia, Sedalia, Missouri.

Board of Governors of the Federal Reserve System, November 15, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-28008 Filed 11-20-91; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Meeting

Name: Health Services Research Training Advisory Committee.

Date and Time: December 13, 1991, 8 a.m.

Place: Parklawn Building, Conference Room J, 5600 Fishers Lane, Rockville, Maryland.

Open December 13, 8:00 a.m. to 8:30 a.m.

Closed for remainder of meeting.

Purpose: The Committee is charged with conducting the initial review of grant applications from educational institutions, individuals, or organizations for Federal support to ensure that highly-trained scientific personnel will be available in adequate numbers and in the appropriate research areas and fields to maintain the nation's health services research agenda.

Agenda: The open session on December 13 from 8:00 a.m. to 8:30 a.m. will be devoted to a business meeting covering administrative matters and reports. The closed session of the meeting will be devoted to a review of grant application emphasizing health services research training. In accordance with the Federal Advisory Committee Act, title 5, U.S. Code, appendix 2 and title 5, U.S.C. 552b(c)(6), the Administrator, AHCPR, has made a formal determination that this latter session will be closed because the discussions are likely to reveal personal information concerning individuals associated with applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meeting, or other relevant information should contact Mrs. Linda Blankenbaker, Agency for Health Care Policy and Research, room 18420, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443-3091.

Agenda items are subject to change as priorities dictate.

Dated: November 15, 1991.

J. Jarrett Clinton,

Administrator.

[FR Doc. 91-28073 Filed 11-20-91; 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:

Pulmonary-Allergy Drugs Advisory Committee

Date, time, and place. December 12 and 13, 1991, 8:30 a.m., Holiday Inn Crowne Plaza, Plazas I and II, 1750 Rockville Pike, Rockville, MD.

Type of meeting and contact person. Open committee discussion, December 12, 1991, 8:30 a.m. to 7:30 p.m.; open public hearing, December 13, 1991, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 4:30 p.m.; Anna J. Baldwin, 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 the treatment of pulmonary disease and diseases with allergic and/or immunologic mechanisms.

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 on or before December 5, 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 for adverse effects that may be associated with long-term use of inhaled beta-agonist bronchodilators

Allergenic Products Advisory Committee

Date, time, and place. December 13 1991, 8 a.m., National Institutes of Health, Conference Rm. 6, Bldg. 31, 9000 Rockville Pike, Bethesda, MD.

Type of meeting and contact person Open public hearing, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 5 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 allergenic biological products intended for use in the diagnosis, prevention, or treatment of human disease.

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 on or before December 1, 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: (1) The standardization procedures for allergenic extracts; (2) the implementation of potency testing of allergenic extracts; (3) the status of standardization of grass extracts; (4) the status of standardization of cat extracts; (5) the status of standardization of other extracts; (6) the status of patch test allergens/poison ivy extracts; and (7) the use of perchlorethylene in the manufacture of pollen extracts.

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 doe 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) an (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: November 15, 1991.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 91-28010 Filed 11-20-91; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-040-92-4111-16]

Rock Springs District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting of the Rock Springs District Advisory Council.

SUMMARY: This notice sets forth the schedule and agenda of a meeting of the Rock Springs District Advisory Council.

DATES: December 18, 1991, 9 a.m. until 4 p.m.

ADDRESSES: Rock Springs District Office, Bureau of Land Management, Highway 191 North, Rock Springs, Wyoming 82901.

FOR FURTHER INFORMATION CONTACT: Marlowe E. Kinch, District Manager, Rock Springs District, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82902-1869, (307) 382-5350.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include:

1. Introduction and opening remarks.
2. Review of minutes from last meeting.
3. Green River Resource Management Plan Issues briefing.
4. Questar Pipeline briefing.
5. Arch Minerals/Bean Springs Coal Development briefing.
6. Coal and trona leasing programs update.
7. Animal Damage Control program update.
8. Public comment period.

The meeting is open to the public. Interested persons may make oral statements to the Council between 2 p.m. and 3 p.m., or file written statements for the Council's consideration. Anyone wishing to make an oral statement should notify the District Manager at the preceding address by December 15, 1991.

Depending on the number of persons wishing to make oral statements, a time limit per person may be established by the District Manager.

Marlowe E. Kinch,

District Manager.

[FR Doc. 91-28036 Filed 11-20-91; 8:45 am]

BILLING CODE 4310-22-M

[AZ-050-02-4212-11; AZA 25991]

La Paz County, Arizona, Realty Action, Lease/Conveyance; Yuma District

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, Recreation and Public Purposes Act Classification in La Paz County, Arizona.

SUMMARY: The following public lands in the town of Quartzsite, Arizona, have been examined and found suitable for classification for lease or conveyance for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.):

Gila and Salt River Meridian, Arizona

T. 4 N., R. 19 W.,
- Sec. 15, E½, NW¼, E½SW¼, NW¼SW¼, and N½SW¼SW¼;
- Sec. 17, all;
- Sec. 20, all;
- Sec. 21, W½NE¼, N½NW¼, N½SW¼ NW¼, NE¼SE¼NW¼, and S½S½ NW¼, excluding 23.969 acres under recreation and public purposes classification and lease AZA-22501;
- Sec. 22, NE¼, E½SE¼, E½E½NW¼SE¼, and SW¼SE¼;
- Sec. 23, N½, N½S½, S½NE¼SW¼SW¼, NW¼SW¼SW¼, SE¼SW¼SW¼, N½ SE¼SW¼, SW¼SE¼SW¼, N½S½ SE¼, N½SW¼SW¼SE¼, SE¼SW¼ SW¼SE¼, SE¼SE¼SW¼SE¼, E½ SW¼SE¼SE¼, and W½SE¼SE¼SE¼;
- Sec. 26, S½NE¼NE¼NE¼NE¼, NW¼ NE¼NE¼NE¼, S½NE¼NE¼NE¼, E½ NW¼NE¼NE¼, S½NW¼NW¼NE¼ NE¼, SW¼NW¼NE¼NE¼, S½NE¼ NE¼, NE¼NE¼NW¼NE¼, S½NE¼ NW¼NE¼, NE¼NW¼NW¼NE¼, S½ NW¼NW¼NE¼, S½NW¼NE¼, S½NE¼, S½NE¼NE¼NW¼, NW¼ NE¼NW¼, S½NE¼NW¼, and SE¼NW¼;
- Sec. 28, NW¼SE¼;
- Sec. 29, NW¼NE¼, N½NW¼, and S½SW¼.

The areas described aggregate 3,458.531 acres, more or less.

SUPPLEMENTARY INFORMATION: This action is a motion by the Bureau of Land Management to make lands available to support community expansion. These lands were identified in the Yuma District Resource Management Plan, as amended, as having potential for disposal. Lease or conveyance of the lands for recreational or public purposes use would be in the public interest.

Lease or conveyances of the lands will be subject to the following terms, conditions, and reservations:

1. Provisions of the Recreation and Public Purposes Act and all applicable regulations of the Secretary of the Interior.

2. Rights-of-way for ditches and canals constructed by the authority of the United States.

3. All valid existing rights documented on the official public land records at the time of lease/patent issuance.

4. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

5. Any other reservation that the authorized officer determines appropriate to ensure public access and proper management of Federal lands and interests therein.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws.

DATES: On or before January 6, 1992, interested persons may submit comments regarding the proposed lease/conveyance or classification of the lands to the District Manager, Yuma District Office, 3150 Winsor Avenue, Yuma, Arizona 85365, 602-726-6300. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective January 21, 1992.

Upon the effective date of classification, the lands will be open to the filing of an application under the Recreation and Public Purposes Act by any interested, qualified applicant. If, after 18 months following the effective date of classification, an application has not been filed, the segregative effect of the classification shall automatically expire and the lands classified shall return to their former status without further action by the authorized officer.

This notice cancels and replaces the classification notice contained in 55 FR 21261, May 23, 1990, except N½NE¼ NE¼, W½SW¼NE¼NE¼, sec. 29, which remains segregated and classified by an application received December 14, 1988 (AZA 23643).

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Yuma District Office, 3150 Winsor Avenue, Yuma, Arizona 85365.

Dated: November 13, 1991.

Harry DeLong,

Acting District Manager.

[FR Doc. 91-28037 Filed 11-20-91; 8:45 am]

BILLING CODE 4310-32-M

[CA-940-92-4730-12; 92-00160-ILM-94]

Filing of Plats of Survey; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested state and local government officials of the latest filing of Plats of Survey in California.

EFFECTIVE DATES: Filing was effective at 10 a.m. on the date of submission to the Bureau of Land Management (BLM), California State Office, Public Room.

FOR FURTHER INFORMATION CONTACT: Clifford A. Robinson, Chief, Branch of Cadastral Survey, Bureau of Land Management (BLM), California State Office, 2800 Cottage Way, room E-2845, Sacramento, CA 95825, 916-978-4775.

SUPPLEMENTARY INFORMATION: The plats of Survey of lands described below have been officially filed at the California State Office, Sacramento, CA.

Humboldt Meridian, California

T. 6 N., R. 2 E.—Dependent resurvey and survey in sections 19 and 30, (under Group 993) accepted May 18, 1990, to meet certain administrative needs of the Bureau of Indian Affairs.

T. 17 N., R. 1 W.—Dependent resurvey and survey of lots 6, 7 and 8 of section 13, (under Group 1045) accepted February 27, 1991, to meet certain administrative needs of the BLM, Ukiah District, Arcate Resource Area.

T. 17 n., R. 7 E.—Dependent resurvey and metes-and-bounds survey of tract 45, (under Group 1080) accepted June 4, 1991, to meet certain administrative needs of the U.S. Forest Service, Klamath National Forest.

Mount Diablo Meridian, California

T. 38 N., R. 6 E., and T. 39 N., R. 6 E.—Dependent resurvey and subdivision of sections 3, 4, 5 and 10 (T. 38 N., R. 6 E.) and the dependent resurvey and subdivision of sections 31, 32 and 33 (T. 39 N., R. 6 E.), (under Group 887) accepted November 6, 1990, to meet certain administrative needs of the U.S. Forest Service, Modoc National Forest.

T. 26 N., R. 3 E.—Dependent resurvey, (under Group 968) accepted November 6, 1991, to meet certain administrative needs of the BLM, Ukiah District, Redding Resource Area.

T. 48 N., R. 6 E.—Dependent resurvey and subdivision of sections 29, 30 and 31, (under Group 1027) accepted November 1, 1990, to meet certain administrative needs of the U.S. Forest Service, Modoc National Forest.

T. 47 N., R. 6 E.—Dependent resurvey and subdivision of sections 2, 3 and 4, (under Group 1027) accepted November 1, 1990, to meet certain administrative needs of the U.S. Forest Service, Modoc National Forest.

T. 18 S., R. 10 E.—Dependent resurvey, (under Group 1028) accepted December 5, 1990, to meet certain administrative needs of the BLM, Bakersfield District, Hollister Resource Area.

T. 18 S., R. 10 E., and T. 18 S., R. 11 E.—Dependent resurvey, (under Group 959) accepted December 5, 1990, to meet certain administrative needs of the BLM, Bakersfield District, Hollister Resource Area.

T. 7 N., R. 12 E.—Dependent resurvey and corrective dependent resurvey, (under Group 1054) accepted January 3, 1991, to meet certain administrative needs of the BLM, Bakersfield District, Folsom Resource Area.

T. 47 N., R. 5 E.—Supplemental plat of the NW¼ section 25, accepted January 3, 1991, to meet certain administrative needs of the BLM, Susanville District, Alturas Resource Area.

T. 2 S., R. 18 E., and T. 2 S., R. 19 E.—Dependent resurvey (under Group 1006) accepted May 18, 1990, to meet certain administrative needs of the U.S. Forest Service, Stanislaus National Forest.

T. 32 N., R. 9 W.—Dependent resurvey, (under Group 1065) accepted January 16, 1991, to meet certain administrative needs of the BLM, Ukiah District, Redding Resource Area.

T. 15 N., R. 8 E.—Supplemental plats (3) of section 1, accepted February 15, 1991, to meet certain administrative needs of the BLM, Bakersfield District, Folsom Resource Area.

T. 17 S., R. 9 E.—Supplemental plat of the NE¼ section 4, accepted March 4, 1991, to meet certain administrative needs of the BLM, Bakersfield District, Hollister Resource Area.

T. 42 N., R. 8 W.—Dependent resurvey and subdivision of section 2, (Group 1076) accepted May 13, 1991, to meet certain administrative needs of the BLM, Ukiah District, Redding Resource Area.

T. 25 S., R. 17 E.—Supplemental plat of the NW¼ section 30, accepted May 31, 1991, to meet certain administrative needs of the BLM, Bakersfield District, Caliente Resource Area.

T. 30 S., R. 18 E.—Supplemental plat of the SW¼ section 31, accepted June 5, 1991, to meet certain administrative needs of the BLM, Bakersfield District, Caliente Resource Area.

T. 29 N., R. 3 W.—Dependent resurvey, and metes-and-bounds survey, (Group 1056) accepted June 10, 1991, to meet certain administrative needs of the Bureau of Indian Affairs.

T. 16 N., R. 16 E.—Corrective dependent resurvey, (Group 715) accepted June 11, 1991, to meet certain administrative needs of the U.S. Forest Service, Tahoe National Forest.

T. 27 S., R. 10 E.—Supplemental plat of the SE¼ section 17, accepted June 12, 1991, to meet certain administrative needs of the BLM, Bakersfield District, Caliente Resource Area.

All of the above listed surveys are not the basic record for describing the lands for all authorized purposes. The surveys will be placed in the open files in the BLM, California State Office and will be available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fee.

Dated: November 12, 1991.

Clifford A. Robinson,

Chief, Branch of Cadastral Survey.

[FR Doc. 91-28038 Filed 11-20-91; 8:45 am]

BILLING CODE 4310-40-M

[AZ-930-4214-10; AZA-26001, AZA-26002, AZA-26003]

Proposed Withdrawal and Opportunity for Public Meeting; Arizona

November 14, 1991.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, has filed three applications to withdraw a total of 60.00 acres (20.00 acres per application) of National Forest System lands for the protection of the existing Reef Townsite, Ramsey Vista Campgrounds and Carr Canyon House Administrative Site. This notice closes the lands for up to 2 years from location and entry under the United States mining laws. The lands will remain open to all uses other than the mining laws.

DATES: Comments and requests for a meeting should be received on or before February 19, 1992.

ADDRESSES: Comments and meeting requests should be sent to the Arizona State Director, Bureau of Land Management (BLM), 3707 N. 7th Street, Phoenix, Arizona 85014, or P.O. Box 16563, Phoenix, Arizona, 85011-6563.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM Arizona State Office, (602) 640-5509.

SUPPLEMENTARY INFORMATION: On October 28 and 31, 1991, the U.S. Department of Agriculture, Forest Service, filed three applications to withdraw the following described National Forest System lands from location and entry under the United States mining laws, subject to valid existing rights: Gila and Salt River Meridian.

Coronado National Forest

T. 23 S., R. 20 E.,
Sec. 11, N½SE¼SW¼, Carr Canyon House Administrative Site, AZA-26003;
Sec. 14, W½NW¼SW¼, Reef Townsite Campground, AZA-26001;
Sec. 15, E½NW¼SW¼, Ramsey Vista Campground, AZA-26002.

The areas described aggregate 60.00 acres in Cochise County.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawals may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawals. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawals must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The applications will be processed in accordance with regulations as set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless an application is denied or cancelled or the withdrawals are approved prior to that date. The temporary uses which will be permitted during this segregative period are all those applicable to U.S. Forest Service administered lands except those under the mining laws.

The temporary segregation of the lands in connection with these applications shall not affect the

administrative jurisdiction over the lands.

Beaumont C. McClure,

Deputy State Director, Lands and Renewable Resources.

[FR Doc. 91-28039 Filed 11-20-91; 8:45 am]

BILLING CODE 4310-32-M

[ID-943-4214-11; IDI-016388, IDI-014955]

Proposed Continuation of Withdrawals; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Corps of Engineers proposes that two withdrawals for the Dworshak Reservoir, comprising 13,647.03 acres, continue for an additional 83 years. The lands would remain closed to surface entry and mining but have been and would remain open to mineral leasing.

DATES: Comments should be received by February 19, 1992.

ADDRESSES: Comments should be sent to State Director, Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706, 208-384-3162.

FOR FURTHER INFORMATION CONTACT: William E. Ireland, BLM, Idaho State Office, 208-384-3162.

SUPPLEMENTARY INFORMATION: The Corps of Engineers proposes that the existing land withdrawals made by Public Land Order Nos. 3401 and 5568 be continued for a period of 83 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is located within the following described townships:

Boise Meridian

T. 37 N., Rgs. 1 and 2 E.;
T. 38 N., Rgs. 1, 2, 3, and 4 E.;
T. 39 N., Rgs. 2, 3, and 4 E.;
T. 40 N., Rgs. 4 and 5 E.;
T. 41 N., Rgs. 4, 5 and 6 E.

The withdrawals aggregate 13,647.03 acres in Clearwater County.

The purpose of the withdrawals is to protect the Dworshak Dam and Reservoir project. The withdrawals segregate the land from settlement, sale, location, and entry, including location and entry under the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawals.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuations may present their views in writing to Idaho State Director at the above address.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be continued, and, if so, for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

Dated: November 12, 1991.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 91-28040 Filed 11-20-91; 8:45 am]

BILLING CODE 4310-GG-M

Fish and Wildlife Service

Receipt of Application for Permit

The public is invited to comment on the following application for permits to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*), and the regulations governing marine mammals (50 CFR Part 18).

Applicant

Name: The Seattle Aquarium
Address: Pier 59, Waterfront Park Seattle, Washington 98101, PRT-763288.

Type of Permit: Public Display.

Name and Number of Animals: One male Alaskan sea otter (*Enhydra lutris*).

Summary of Activity to be Authorized: The applicant proposes to import one Alaskan sea otter for public display. The animal was originally obtained as a beached and stranded animal in the 1989 Valdez, Alaskan oil spill.

Source of Marine Mammals for Display: Alaskan, Valdez oil spill.

Period of Activity: 1 year.

Concurrent with the publication of this notice in the **Federal Register**, the Office of Management Authority is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments, requests for copies of the complete application or requests for a public hearing on this application should be submitted to the Director, Office of Management Authority, 4401 North Fairfax Dr., Arlington VA 22203, within 30 days of the publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

Documents submitted in connection with the above application are available for review during normal business hours (7:45 am to 4:15 pm) at 4401 N. Fairfax Dr., room 432, Arlington VA

Dated: November 15, 1991.

Maggie Tieger,

Acting Chief Branch of Permits, Office of Management Authority.

[FR Doc. 91-27969 Filed 11-20-91; 8:45 am]

BILLING CODE 4310-55-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Senior Executive Service

November 6, 1991.

On or about November 6, 1991 the following persons will become members of the Performance Review Board.

Nancy Frame, Chairperson
Robert Perkins, Member
Barry Goldberg, Member
George Laudato, SFS Member
Daisy Fields, Public Member
Irv Coker, Public Member
Edward Spriggs (alternate)
John Wilkinson (alternate)

Dated: November 7, 1991.

Shirley D. Renrick,

Executive Secretary, Performance Review Board.

[FR Doc. 91-27957 Filed 11-20-91; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31948]

K. Earl Durden Green Bay Packaging, Inc., Rail Management and Consulting Corporation, and Wilmington Terminal Railroad, Inc.—Continuance in Control Exemption—Wilmington Terminal Railroad, L.P., and Georgia Central Railway, L.P.

Noncarriers K. Earl Durden (Durden), Green Bay Packaging, Inc. (Green Bay), and Rail Management and Consulting Corporation (RMCC), and class III rail carrier Wilmington Terminal Railroad, Inc. (WTRI), have filed a notice of exemption to continue to control Wilmington Terminal Railroad, L.P.

(WTLP), and Georgia Central Railway, L.P. (GCLP).

Durden and Green Bay each own 50 percent of WTRI's voting stock, although Durden controls WTRI under an agreement with Green Bay.[1] WTRI will become a noncarrier by conveying its railroad asserts and operations in North Carolina and Georgia to WTLP and GCLP, respectively, and the limited partnerships will become class III rail carriers.[2]

Durden and Green Bay each own 50 percent of RMCC. RMCC will be the general partner of both WTLP and GCLP with a 1 percent interest in each. Green Bay will trade its 50 percent interest in WTRI for a 49.5 percent interest in both WTLP and GCLP, thus owning a 49.5 percent interest directly and 0.5 percent indirectly through RMCC. Durden will own 100 percent of WTRI, and through it, 49.5 percent of WTLP and GCLP, and like Green Bay, he will indirectly own a 0.5 percent interest in these two carriers through his 50 percent interest in RMCC.

The purpose of the corporate reorganization is to rearrange WTRI's geographically disparate operations along more natural organizational lines, while conforming them, as limited partnerships rather than corporations, to the tax structure of Durden's and Green Bay's other railroad holdings. No change in operations or service is anticipated, nor will there be any impact on WTRI employees.

The parties indicate that: (1) The properties of WTLP and GCLP will not connect with each other or with any other common carrier railroads in which either Durden or Green Bay has an interest; (2) the continuance in control is not part of a series of anticipated transactions that would connect the rail carriers with each other or with any other railroad they might own; and (3) the transaction does not involve a class I carrier. Therefore, this transaction involves the control of nonconnecting carriers and is exempt from the prior review requirements of 49 U.S.C. 11343. See 49 CFR 1180.2(d)(2).

As a condition to use of this exemption, and employees affected by the transaction will be protected by the conditions set forth in New York Dock Ry.—Control—Brooklyn Eastern Dist., 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: Donald G. Avery, Slover & Lotus, 1224 17th Street, NW., Washington, DC 20036.

Decided: November 14, 1991.

By the Commission, David M. Knoschnik, Director, Office of Proceedings.

Sidney L. Strickland Jr.,

Secretary.

[FR Doc. 91-27991 Filed 11-20-91; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31948; Sub-No. 2]

Georgia Central Railway, L.P.—Acquisition and Operation Exemption—Wilmington Terminal Railroad, Inc.

Georgia Central Railway, L.P. (GCLP), a noncarrier, has filed a notice of exemption to acquire and operate approximately 164 miles of rail and rail-related property owned by Wilmington Terminal Railroad, Inc. (WTRI), a class III carrier, between Savannah and Rhine, GA, and between Vidalia and East Dublin, GA, as well as a 57-miles line between East Dublin and Macon, GA, leased by WTRI. This notice of exemption is related to two other notices.[1] Together, these three notices cover a corporate reorganization and restructuring.

Any comments must be filed with the Commission and served on: Donald G. Avery, Slover & Loftus, 1224 Seventeenth Street, NW., Washington, DC 20036.

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 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: November 14, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-27992 Filed 11-20-91; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31948 (Sub-No. 1)]

Notice of Exemption

Wilmington Terminal Railroad, L.P.—Acquisition and Operation Exemption—Wilmington Terminal Railroad, Inc.

Wilmington Terminal Railroad, L.P. (WTLP), a noncarrier, has filed a notice of exemption to acquire and operate the rail property located in North Carolina owned by Wilmington Terminal Railroad, Inc. (WTRI), a class III railroad. This notice of exemption is related to two other notices.[1] Together, these three notices cover a corporate reorganization and restructuring.

Any comments must be filed with the Commission and served on: Donald G. Avery, Slover & Loftus, 1224 Seventeenth Street, NW., Washington, DC 20036.

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: November 14, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-27993 Filed 11-20-91; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decrees Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on November 13, 1991, a proposed Consent Decree in *United*

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[1] See Finance Docket No. 31969, Green Bay Packaging, Inc., K. Earl Durden; Galveston Railway, Inc.; Rail Management and Consulting Corporation; and Rail Partners, L.P.—Continuance in Control Exemption—Galveston Railroad, L.P.; LRW RY, L.P.; ET RY, L.P.; ATW RY, L.P.; KWT Railway, Inc.; Copper Basin Railway Inc.; and Wilmington Terminal Railroad, Inc.

[2] Notices of exemption have been concurrently filed in Finance Docket No. 31948 (Sub-No. 1), Wilmington Terminal Railroad, L.P.—Acquisition and Operation Exemption—Wilmington Terminal Railroad, Inc., and Finance Docket No. 31948 (Sub-No. 2), Georgia Central Railway, L.P.—Acquisition and Operating Exemption—Wilmington Terminal Railroad , Inc.

[1] Finance Docket No. 31948, K. Earl Durden, Green Bay Packaging, Inc., Rail Management and Consulting Corporation, and Wilmington Terminal Railroad, Inc.—Continuance in Control Exemption—Wilmington Terminal Railroad, L.P. and Georgia Central Railway, L.P. and Finance Docket No. 31948 (Sub-No. 1), Wilmington Terminal Railroad, L.P.—Acquisition and Operation Exemption—Wilmington Terminal Railroad, Inc.

[1] Finance Docket No. 31948, K. Earl Durden, Green Bay Packaging, Inc., Rail Management and Consulting Corporation, and Wilmington Terminal Railroad, Inc.—Continuance in Control Exemption—Wilmington Terminal Railroad, L.P., and Georgia Central Railway, L.P., and Finance Docket No. 31948 (Sub-No. 2), Georgia Central Railway, L.P.—Acquisition and Operation Exemption—Wilmington Terminal Railroad, Inc.

States v. *Brake, Clutch & Drum Service Inc., et al.*, Civil Action No. 91C1219, was lodged with the United States District Court for the Eastern District of Wisconsin. The proposed Consent Decree concerns the hazardous waste site known as the Master Disposal Service Landfill Site, located on Capitol Drive (Wisconsin Route 190), Brookfield, Waukesha County, Wisconsin. The Consent Decree sets forth a settlement between the United States, the State of Wisconsin, and thirty-three Settling Defendants, under which the Settling Defendants will perform the remedial design and remedial action for Operable Unit 1 at the site, reimburse the United States for $154,000 in past costs, and pay federal and state oversight costs.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Brake, Clutch & Drum Service, Inc., et al.*, D.J. Ref. 90-11-2-603.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Eastern Distict of Wisconsin, 530 Federal Building, 517 East Wisconsin Ave., Milwaukee, Wisconsin 53202; at the Region V Office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604; and the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Washington, DC 20004 (202-347-2072).

Copies of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004. In requesting a copy, please include a check in the amount of $34.25 (25 cents per page for reproduction costs) payable to the Consent Decree Library.

Roger Clegg,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 91-27958 Filed 11-20-91; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on November 4, 1991 two proposed Consent Decrees in *United States* v. *Farwest Fisheries, Inc.*, Civil Action No. C90-864D (W.D. Wash.), were lodged with the United States District Court for the Western District of Washington. The Consent Decrees resolve the United States' allegations of violations of the Asbestos National Emission Standards for Hazardous Air Pollutants ("the asbestos NESHAP"), 40 CFR part 61, and the Clean Air Act, 42 U.S.C. 7401 *et seq.*, by the two defendants in this action, Farwest Fisheries, Inc. and Nelbro Packing Company, Inc. Generally, these Decrees require the Defendants to pay civil penalties to the United States, to comply with the provisions of the Clean Air Act and the asbestos NESHAP in the future, and to implement programs for the control of asbestos.

The Department of Justice will receive comments relating to the proposed Consent Decrees for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Farwest Fisheries, Inc.*, D.J. No. 90-5-2-1-1422.

The proposed Consent Decrees also may be examined at the Office of the United States Attorney for the Western District of Washington, 3600 Seafirst Building, 800 Fifth Avenue, Seattle, Washington 98104 and the U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101. The Decrees may be examined as well at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004 (202-347-2072). A copy of one or both of the proposed Consent Decrees may be obtained in person or by mail from the Environmental Enforcement Document Center. In requesting a copy, please enclose a check in the amount of $4.25 for a copy of the Consent Decree with Nelbro, a check in the amount of $4.50 for a copy of the Consent Decree with Farwest, or a check in the amount of $8.75 for a copy of both Decrees (25 cents per page reproduction cost) payable to Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 91-27959 Filed 11-20-91; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decrees Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended ("CERCLA")

In accordance with section 122(i) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 U.S.C. 9622(i), and Departmental policy at 28 CFR 50.7, notice is hereby given that a proposed Major Consent Decree and a proposed *De Minimis* Consent Decree in *United States* v. *Ross Electric of Washington, Inc. et al.* (W.D. Wash), Civil Action No. C 91-5470B were lodged on November 13, 1991, with the United States District Court for the Western District of Washington.

On November 13, 1991, the Complaint in this enforcement action was filed by the United States of America against Ross Electric of Washington, Inc. and 81 other defendants under sections 106 and 107 of CERCLA, 42 U.S.C. 9606, 9607, seeking injunctive relief and reimbursement of costs incurred by the United States in responding to the release or threat of release of hazardous substances from the Coal Creek Site located near Chehalis, Washington.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, written comments relating to the consent decrees. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Ross Electric of Washington, Inc., et al.*, D.O.J. Ref. No. 90-11-2-611.

The proposed consent decrees may be examined at the Region 10 office of the Environmental Protection Agency ("EPA"), 1200 Sixth Avenue, Seattle, WA 98101; and at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Box 1097, Washington, DC 20004, (202) 347-2072. A copy of the proposed consent decrees may be obtained in person or by mail from the Document Center. In requesting a copy of the decrees, please enclose a check for copying costs in the amount of $102.00 (25 cents per page reproduction costs), payable to Consent Decree Library.

Barry M. Hartman,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 91-28067 Filed 11-20-91; 8:45 am]

BILLING CODE 4410-01-M

Notice of Lodging a Final Judgment By Consent Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on November 13, 1991, two proposed Partial Consent Decrees in *United States* v. *Snyder, et al.* (Civil Action No. 88-2376),

United States. v. *Transformer Service, Inc.* (Civil Action No. 89–2132), and *United States* v. *Ford Motor Company* (Civil Action No. 89–2131) (consolidated cases) were lodged with the United States District Court for the Western District of Pennsylvania.

The proposed Partial Consent Decrees resolve the liability of defendants American Gage & Machine Company, Inc. ("Gage"), Standard Artware, Inc. ("SAC"), R.W. Elliott & Sons, Inc. ("Elliot"), Ford Motor Company ("Ford"), Hirsch Electric Company, Inc. ("Hirsch"), Mt. Sinai Hospital Center ("Sinai"), F.B. Leopold Company, Inc. ("Leopold"), and Transformer Service, Inc. ("TSI"), under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") for the costs incurred by the United States in performing an emergency removal at the interstate Transformer Site in Ellwood City, Pennsylvania ("the Site") between August, 1985, and January, 1986.

One Partial Consent Decree resolves the liability of defendants Gage, SAC, and Elliot to the United States for Past Response Costs at the Site. Under the terms of that Partial Consent Decree, defendant Gage agrees to pay $270,000 to the United States and defendants Elliot and SAC each agree to pay $105,000 to the United States.

The second Partial Consent Degree resolves the liability of defendants ford, Hirsch, Leopold, Sinai and TSI to the United States for Past Response Costs at the Site. Under the terms of the Partial Consent Decree, those defendants jointly agree to pay $60,000 to the United States.

The Department of Justice will receive comments relating to the proposed Partial Consent Decrees for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Snyder, et al.* (DOJ No. 90–11–3–382).

The proposed Partial Consent Decrees may be examined at the office of the United States Attorney for the Western District of Pennsylvania, 1400 Gulf Tower, 7th and Grant Streets, Pittsburgh, Pennsylvania, 15219, and the U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. The Decree may also be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004, 202–347–2072. A copy of the proposed Partial Consent Decrees may be obtained in person or by mail from the Document Center. In requesting a copy of the proposed Partial Consent Decrees, please enclose a check in the amount of $9.25 (25 cents per page reproduction cost) payable to Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 91–27960 Filed 11–2091; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated May 31, 1991, and published in the **Federal Register** on June 19, 1991, (56 FR 28175), Mallinckrodt Specialty Chemicals Company, Mallinckrodt and Second Streets, St. Louis, Missouri 63147, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cocaine (9041)	II
Codeine (9050)	II
Diprenorphine (9058)	II
Etorphine Hydrochloride (9059)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Methadone (9250)	II
Methadone-intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Opium extracts (9610)	II
Opium fluid extract (9620)	II
Opium tincture (9630)	II
Opium, powdered (9639)	II
Opium, granulated (9640)	II
Oxymorphone (9652)	II
Fentanyl (9801)	II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: November 12, 1991.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 91–28027 Filed 11–20–91; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Notice of Registration

By notice dated May 31, 1991, and published in the **Federal Register** on June 19, 1991, (56 FR 28176), Smithkline Beecham Chemicals, Division of Smithkline Beecham Corporation, 900 River Road (L–11), Conshohocken, Pennsylvania 19428, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
4-methoxyamphetamine (7411)	I
Amphetamine (1100)	II
Phenylacetone (8501)	II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: November 12, 1991.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 91–28028 Filed 11–20–91; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 90–62]

Rex Stockard, Jr., M.D.; Denial of Application for Registration

On October 24, 1990, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Rex Stockard, Jr., M.D., (Respondent), of 4417 West Gore Boulevard, Lawton, Oklahoma 73505, proposing to deny his application, executed on December 11, 1989, for registration as a practitioner under 21 U.S.C. 823(f). The Order to Show Cause alleged that Respondent's registration would be inconsistent with the public interest.

By letter dated December 3, 1990, Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. The matter was subsequently transferred to the docket of Administrative Law Judge Paul A. Tenney. Following prehearing procedures, a hearing was held before Judge Tenney in Oklahoma City, Oklahoma, on May 15, 1991. On July 29, 1991, the administrative law judge issued his opinion and recommended ruling, findings of fact, conclusions of law and decision. On August 16, 1991, the Government submitted exceptions to Judge Tenney's opinion and recommended ruling. On August 28, 1991, the administrative law judge transmitted the record of these proceedings, including the Government's exceptions, to the Administrator. The Administrator has considered the record in its entirety and, pursuant to 21 CFR 1316.67, hereby issues his final order in this matter based upon findings of fact and conclusions of law as hereinafter set forth.

The administrative law judge found that Respondent surrendered his DEA Certificate of Registration, AS6073643, on April 18, 1989. The surrender followed Respondent's admitting having a substance abuse problem with Didrex, a Schedule III controlled substance, and the suspension of his state registration to handle controlled substances by the Oklahoma Bureau of Narcotics and Dangerous Drugs Control. The Oklahoma Bureau found that, in addition to Dr. Stockard's substance abuse problem, he failed to maintain adequate controls against the diversion of controlled substances to unauthorized entities.

The administrative law judge further found that Respondent authorized at least fifty-seven prescriptions for controlled substances after the surrender of his DEA Certificate of Registration. The administrative law judge specifically stated that Respondent knew the prescriptions which he admitted authorizing were unlawful, and that

> The actions suggest a range of discretion that cannot be reconciled with the "public interest" test of the controlling statute; there is no persuasive indication as to why Respondent could not have made arrangements with other physicians to prescribe any controlled substances, as had been done in other situations.

The administrative law judge found that Respondent's only defense to the prescriptions which he admitted authorizing was compassion and convenience, and his only defense to the numerous other prescriptions which were authorized by him or his office was that the dispensing pharmacies violated the law and failed to receive authorization for the prescriptions.

The administrative law judge further found that Respondent has fulfilled the requirements of a substance abuse program in Cushing, Oklahoma, and that the issue of substance abuse appears to have been resolved. The Oklahoma Bureau of Narcotics and Dangerous Drugs reinstated Respondent's Schedule II through V prescribing privileges on the condition that he use duplicate, serially-numbered prescription pads.

Discussing the public interest factors in 21 U.S.C. 823(f), the administrative law judge found that the Government made a prima facie showing under factor (4) that Respondent had violated Federal, state or local laws relating to controlled substances; he found that factors (1), (2) and (3) either did not apply or worked in the Respondent's favor; and found that the Government did not establish conduct by the Respondent that would threaten the public health and safety. The administrative law judge recommended that the Respondent be registered under specified minimal conditions. The Administrator disagrees with the administrative law judge and adopts only the findings of fact and conclusions of law of the administrative law judge which are specifically set forth herein.

The Administrator finds that not only was a showing made of Respondent's illegal behavior, but that such conduct indeed posed a threat to the public health and safety. In reaching this conclusion, the Administrator considered the Government's exceptions to Judge Tenney's opinion. The Government's exceptions, combined with a review of the record, persuaded the Administrator that Respondent should not be registered at this time. Clearly, the Respondent either has little or no knowledge of the laws and regulations by which he must abide as a registrant, or he has little or no regard for those laws and regulations. In either case, the Respondent's continuing to prescribe controlled substances when he knew that he had no authority to do so posed a clear threat to the public health and safety. The Respondent undertook to treat patients with the knowledge that he had no authority to monitor their controlled substance medications. There is no question but that such behavior is dangerous to patients who place their trust in their physician and are totally unaware of the status of the physician's registration.

The Administrator determines that, based on the evidence in the record, the Respondent's application must be denied at this time. Evidence does exist that Respondent's irresponsibility may have been attributable to a lack of familiarity with the laws and regulations regarding the prescribing of controlled substances. Accordingly, the Administrator will give favorable consideration to a new application for DEA registration, provided that such application is filed not sooner that one year from the effective date of this final order and is accompanied by evidence that Respondent has completed continuing education courses totalling at least 30 hours of instruction and has in all other respects remained in compliance with all Federal, state and local laws and regulations relating to controlled substances.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that any pending applications for registration under the Controlled Substances Act submitted by Rex Stockard, Jr., M.D., be, and they hereby are, denied.

This order is effective November 21, 1991.

Dated: November 14, 1991.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 91-28029 Filed 11-20-91; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Auto Plaza of Poughkeepsie, et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

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 Administration, 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 begin 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 December 2, 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 December 2, 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 12th day of November 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
Auto Plaza of Poughkeepsie (Wkrs)	Poughkeepsie, NY	11/12/91	10/28/91	26,528	Auto dealership.
Carolina Glove Co, Marshall Plant (Co.)	Conover, NC	11/12/91	10/29/91	26,529	Work gloves.
Cole Hersee Co. (UE)	South Boston, MA	11/12/91	11/02/91	26,530	Switches connectors, etc.
Crawford/Carisbrook Co ACTWU	Richmond, VA	11/12/91	10/29/91	26,531	Pillow, Beanbags, cushions.
Dual Drilling Co. (Wkrs)	Dallas, TX	11/12/91	10/31/91	26,532	Oil, gas drilling.
Dual Marine Drilling Co. (Wkrs)	Broussard, La	11/12/91	10/03/91	26,533	Oil, gas drilling.
Elra Dress Co. ILGWU	Jersey City, NJ	11/21/91	10/30/91	26,534	Children's dresses.
Exploration Employment Service (Wkrs)	Livingston, TX	11/12/91	11/01/91	26,535	Oil and gas.
Galva Foundry Co. (Co)	Galva, IL	11/12/91	10/28/91	26,536	Grey iron casting.
Keystone Forging Co. (Co)	Northumberland, PA	11/12/91	10/31/91	26,537	Pipe fittings, gear blanks.
Manton Cork ACTWU	Cranford, NJ	11/12/91	10/28/91	26,538	Cork boards and cork products.
Maxus Exploration (Wkrs)	Mills, WY	11/12/91	10/10/91	26,539	Oil, gas.
Maxus Exploration Co (Wkrs)	Douglas, WY	11/12/91	10/31/91	26,540	Oil and gas.
Maxus Exploration Co (Wkrs)	Gillette, WY	11/12/91	10/31/91	26,541	Oil and gas.
Melsig Dress, Inc. ILGWU	Union City, NJ	11/12/91	10/29/91	26,542	Dresses.
Mohawk Tools, Inc. (Co.)	Montpelier, OH	11/12/91	10/30/91	26,543	Industrial twist drill bits and reamers.
Northern Processors, Inc. (Wkrs)	Traverse City, MI	11/12/91	10/29/91	26,544	Oil and natural gas.
NTI (Co)	Colorado Springs, CO	11/12/91	10/30/91	26,545	Printed circuit boards.
OXY USA, Inc (Co.)	Midland, TX	11/12/91	09/26/91	26,546	Oil and gas.
OXY USA, Inc (Co.)	Houston, TX	11/12/91	09/26/91	26,547	Oil and gas.
OXY USA, Inc. (Co.)	Oklahoma City, OK	11/12/91	09/26/91	26,548	Oil and gas.
OXY USA, Inc. (Co.)	Bakersfield, CA	11/12/91	09/26/91	26,549	Oil and gas.
OXY USA, Inc. (Co.)	Tulsa, OK	11/12/91	09/26/91	26,550	Oil and gas.
Plymouth, Inc UPIU	Bellmawr, NJ	11/12/91	10/28/91	26,551	Paper stationery, notebooks.
Samsung International, Inc (Co.)	Ledgewood, NJ	11/12/91	10/28/91	26,552	Television receiving sets.
Sundor Brands (Wkrs)	Weslaco, TX	11/12/91	10/29/91	26,553	Citrus juice.
Susan Bates, Inc. (Wkrs)	Chester, CT	11/12/91	10/28/91	26,554	Fabrication of needles and crochet hooks.
Terex Corp (Wkrs)	Hudson, OH	11/12/91	10/31/91	26,555	Construction equipment.
Union Camp Corp (Co)	LaGrange, GA	11/12/91	08/30/91	26,556	Merchandise bags for retail stores.
Wilson Learning Corp (Wkrs)	Eden Prairie, MN	11/12/91	10/30/91	26,557	Management & interpersonal skills.
Woodstream Corp (Wkrs)	Lititz, PA	11/12/91	10/29/91	26,558	Plastic boxes.

[FR Doc. 91-28057 Filed 11-20-91; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-26,093]

Bellaire Tool Co. Bellaire, MI; Notice of Negative Determination Regarding Application for Reconsideration

By an application dated October 25, 1991, one of the petitioners requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on October 18, 1991 and was published in the **Federal Register** on October 29, 1991 (56 FR 55690).

Purusant to 28 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The petitioner claims that the plant's closure was the result of foreign competition and the loss of money because of experimental projects.

Investigation findings show that Bellaire Tool produced form tools used only by other affiliates of the parent company to produce form cutters. Neither the parent company nor Bellaire imported form tools or form cutters. Bellaire's production was transferred to another domestic affiliate in Michigan which had its own heat treat operation. A domestic transfer of production would not form a basis for a worker group certification.

Bellaire also had a small salvage operation for outside customers wherein they would remake hobs using the electrical discharge machining process. This salvage work was discontinued in 1991 because it could not compete with the newer technology employed by Star Cutter and others in the industry. Worker separations resulting from a change in technology would not form a basis for a worker group certification.

Other findings show Star Cutters sales of form tools did not decrease in 1990 or in the first half of 1991.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 12th day of November 1991.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Services Unemployment Insurance Service.

[FR Doc. 91-28058 Filed 11-20-91; 8:45 am]

BILLING CODE 4510-30-M

Koh-I-Noor Rapidograph, et al.; Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of November 1991.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A Survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W26,249; Koh-I-Noor Rapidograph, Bloomsbury, NJ

TA-W-26,199; Teledyne Continental Motors, Industrial Products Div., Muskegon, MI

TA-W-26,199A; Teledyne Continental Motors, General Products Div, Muskegon, MI

TA-W-26,258; Selig Manufacturing Co., Inc., Silver City, NC

TA-W-26,200; White Lift Truck Parts & Mfg Co., Inc., Osseo, MN

TA-W-26,253, National Standard Co., Woven Products Div., Corbin, KY

TA-W-26,342, Stiller Seafood, Ft. Pierce, FL

TA-W-26,298; Flowline Div., New Castle, PA

TA-W-26,299; Flowline Div., Whiteville, NC

TA-W-26,334; Miniature Precision Components, Monroe, PA

TA-W-26,192; National Micronetics, Inc., Kingston, KY

TA-W-26,207; Burlington Industries, Inc., Burlington House Decorative Fabrics Div., Rocky Mount Weave Plant, Rocky Mount, NC

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-26,272; Inland Motor, Sieria Vista, AZ

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-26,285; U.S. Metalsource Corp., Fairless Hills, PA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-26,308; Shell Oil Co., Pecten International Co, Houston, TX

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-26,318; Aztec Specialty Co., Oklahoma City, OK

The workers' form does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-26,344; Tuboscope, Inc., Great Bend, KS

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-26,304; Quad Offshore, Inc., Scott, LA

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-26,302; Murray Motor Co. Wyanne, AR

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-26,287; Alta Timber Co., Eugene, OR

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-26,324, Consolidated Industries, Inc., Ft. Bliss, TX

The workers' firm does not produce an articles as required for certification under section 222 of the Trade Act of 1974.

TA-W-26,434; Hewlett-Packard Co., Rockaway, NJ

The investigation revealed that criterion (1) has not been met. A significant number or proportion of the workers did not become totally or partially separated as required for certification.

TA-W-26,323; City of Pittsburgh Finance Dept, Pittsburgh, PA

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-26, 366; Midway Airlines, Inc., Chicago, IL

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-26, 336A and TA-W-26, 366B; Midway Airlines, Inc., Philadelphia, PA and Miami, FL

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-26, 257; Seagate Technology, Bloomington, MN

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-26, 332; McVay Drilling Co., Hobbs, NM

The investigation revealed that criterion (1) has not been met. A significant number or proportion of the workers did not become totally or partially separated as required for certification.

Affirmative Determinations

TA-W-26, 315; Trent Tube-A Div. of Crucible Materials Corp., East Troy, MI

A certification was issued covering all workers separated on or after August 26, 1990.

TA-W-26, 203; Aluminum Co of America (Alcoa), Bauxite, AR

A certification was issued covering all workers separated on or after August 5, 1990.

TA-W-26, 378; Brunswick Display Co., East Brunswick, NJ

A certification was issued covering all workers separated on or after September 19, 1990.

TA-W-26, 319; Barry of Goldsboro, Inc., Goldsboro, NC

A certification was issued covering all workers separated on or after August 30, 1990.

TA–W–26, 329; J.N. R. Shake, Forks, WA

A certification was issued covering all workers separated on or after August 12, 1990.

TA–W–26, 147; Ansell, Inc., El Paso, TX

A certification was issued covering all workers separated on or after July 25, 1990.

TA–W–26, 345; Universal Bedroom Furniture, Inc., Goldsboro, NC

A certification was issued covering all workers separated on or after August 30, 1990.

TA–W–26, 346; Universal Bedroom Furniture, Inc., Wendell, NC

A certification was issued covering all workers separated on or after August 30, 1990.

TA–W–26, 267; Ellajo Fashions, Nuremberg, PA

A certification was issued covering all workers separated on or after August 20, 1990.

TA–W–26, 271; Gallitzin Apparel, Gallitzin, PA

A certification was issued covering all workers separated on or after August 19, 1990.

TA–W–26, 291; and TA–W–26, 292; Brown Shoe Co., Benton, MO and Bernie, MO

A certification was issued covering all workers separated on or after August 30, 1990.

TA–W–26, 293 and TA–W–26, 294; Brown Shoe Co., Fredericktown, MO Caruthersville, MO

A certification was issued covering all workers separated on or after August 30, 1990.

TA–W–26, 295; Brown Shoe Co., Charleston, MO

A certification was issued covering all workers separated on or after August 30, 1990.

I hereby certify that the aforementioned determinations were issued during the month of November, 1991. Copies of these determinations are available for inspection in room C–4318, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210 during normal business hours or will be mailed to persons to write to the above address.

Dated: November 15, 1991.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 91–28059 Filed 11–20–91; 8:45 am]

BILLING CODE 4510–30–M

LEGAL SERVICES CORPORATION

Grant Award for Assessment of Civil Legal Services Needs of Migrant Farmworkers

AGENCY: Legal Services Corporation.

ACTION: Announcement of grant award.

SUMMARY: The Legal Services Corporation hereby announces its intention to award a grant to conduct an assessment of the civil legal assistance needs of LSC-eligible migrant farmworker clients in Mississippi. Pursuant to the Corporation's announcement of funding availability in Volume 6, No. 49, pages 10577 and 10578 of the **Federal Register** of March 13, 1991, a total of $40,000 will be awarded to Central Mississippi Legal Services.

This one-time grant is awarded pursuant to authority conferred by section 1006(a)(1)(B) of the Legal Services Corporation Act of 1974, as amended. This public notice is issued pursuant to section 1007(f) of this Act, with a request for comments and recommendations within a period of thirty (30) days from the date of publication of this notice. The grant award will not become effective and grant funds will not be distributed prior to expiration of this thirty-day period.

DATES: All comments and recommendations must be received on or before the close of business on November 21, 1991, at the Office of Field Services, Legal Services Corporation, 400 Virginia Avenue, SW., Washington, DC 20024–2751.

FOR FURTHER INFORMATION CONTACT: Ressie Walker, Grants Specialist, Grants and Budget Division, Office of Field Services, (202) 863–1837.

Dated: November 18, 1991.

Charles T. Moses III,

Deputy Director, Office of Field Services.

[FR Doc. 91–27989 Filed 11–20–91; 8:45 am]

BILLING CODE 7050–01–M

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Notice of Meeting

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463; 86 Stat. 770) notice is hereby given of a public meeting to be held in Monticello West of the Vista International Hotel, Washington, DC.

DATES: Monday, December 9, 1991 8:30 a.m.–3 p.m.; Tuesday, December 10, 1991 8:30 a.m.–12 p.m.

STATUS: The meeting is to be open to the public.

MATTERS TO BE DISCUSSED: The purpose of this public meeting is to enable the Commission members to discuss progress on the research agenda, future research, and budget and administrative matters.

FOR FURTHER INFORMATION CONTACT: Barbara C. McQuown, Director, National Commission for Employment Policy, 1522 K Street NW., suite 300, Washington, DC 20005, (202) 724–1545.

SUPPLEMENTARY INFORMATION: The National Commission for Employment Policy was established pursuant to title IV–F of the Job Training Partnership Act (Public Law 97–300). The Act charges the Commission with the broad responsibility of advising the President, and the Congress on national employment issues.

The meeting will be open to the public. Handicapped individuals wishing to attend should contact the Commission so that appropriate accommodations can be made.

Anyone wishing to submit comments prior to the meeting, should do so by December 4, and they will be included in the register. Minutes of the meeting will be available for public inspection at the Commission's headquarters, 1522 K Street NW., suite 300, Washington, DC 20005.

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

Barbara C. McQuown,

Director, National Commission for Employment Policy.

[FR Doc. 91–28056 Filed 11–20–91; 8:45 am]

BILLING CODE 4510–23–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Challenge/Advancement Advisory Panel Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Challenge/Advancement Advisory Panel (Media Arts Advancement Section) to the National Council on the Arts will be held on December 10, 1991 from 9 a.m.–5 p.m. in room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by

grant applicants. In accordance with the determination of the Chairman of September 23, 1991, as amended, this session will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 91–27953 Filed 11–20–91; 8:45 am]

BILLING CODE 7537–01–M

Theater Advisory Panel Meeting; Opera-Musical

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Opera-Musical Theater Advisory Panel (Overview "A" Section) to the National Council on the Arts will be held on December 9, 1991 from 9 a.m.–9 p.m. and December 10 from 9 a.m.–12:30 p.m. in rooms M–07 and M–09 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on December 9 from 9 a.m.–4:15 a.m. The topics will be introductions and orientation, guidelines review, and policy discussion.

The remaining portions of this meeting on December 9 from 4:15 p.m.–9 p.m. and December 10 from 9 a.m.–12:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of September 23, 1991, as amended, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 91–27954 Filed 11–20–91; 8:45 am]

BILLING CODE 7537–01–M

Meeting; Opera-Musical Theater Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Opera-Musical Theater Advisory Panel (Overview "B" Section) to the National Council on the Arts will be held on December 10, 1991 from 1 p.m.–4 p.m. in rooms M–07 and M–09 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman of September 23, 1991, this session will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 91–27955 Filed 11–20–91; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Collection of Information Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting a revision to a notice of information collections previously posted in 56 FR 54970, October 23, 1991. The comment period has been changed to November 25, 1991. Interested persons are invited to submit comments by November 25, 1991. Comments may be submitted to:

(A) *Agency Clearance Officer.* Herman G. Fleming, Division of Personnel and Management, National Science Foundation, Washington, DC 20550, or by telephone (202) 357–7335, and to:

(B) *OMB Desk Officer.* Office of Information and Regulatory Affairs, Attn: Dan Chenok, Desk Officer, OMB, 722 Jackson Place, Room 3208, NEOB, Washington, DC 20503.

Title: Updating the Research Experiences for Undergraduates (REU) Database.

Affected Public: Individuals.

Responses/Burden Hours: 12,000 respondents, 5 minutes per response.

Abstract: During FY 1987–90, NSF made 3,624 REU awards to provide hands-on research experiences to promising undergraduate students to encourage them to pursue graduate study in science and engineering. The survey requests updated home addresses from participants for longitudinal tracking and interim educational and career status information.

Dated: November 15, 1991.

Herman G. Fleming,

NSF Reports Clearance Officer.

[FR Doc. 91–27947 Filed 11–20–91; 8:45 am]

BILLING CODE 7555–01–M

Program Advisory Panel for Advanced Scientific Computing; Meeting

The National Science Foundation announces the following meeting:

Name: Program Advisory Panel for Advanced Scientific Computing.

Date and Time: December 9—9 a.m.–5:30 p.m.; December 10—9 a.m.–2 p.m.

Place: Room 540, National Science Foundation, 1800 G Street N.W., Washington, DC 20550.

Type of Meeting:

Open

December 9—9 a.m.–3:30 p.m.

December 10—9 a.m.–2 p.m.

Closed

December 9—3:30–5:30 p.m.

Contact Person: Dr. Thomas Weber, Director, Division of Advanced Scientific Computing, room 417, National Science Foundation, 202/357–7558.

Minutes: May be obtained from Contact Person.

Purpose of Meeting:To provide advice and recommendations concerning NSF support of advanced scientific computing

Agenda:

Open

- DASC Overview
- CISE Overview
- Meeting with NSF Director
- Networking Overview
- Committee of Visitor Report (New Technologies)
- HPCC Report

Closed

- In-depth Discussion of Committee of Visitors preliminary report

Reason for Closing: Specific declination actions in the Committee of Visitors preliminary report are likely to be discussed. These matters are within exemptions (4) and (6) of U.S.C. 552b(c), Government in the Sunshine Act.

Dated: November 13, 1991

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91–27994 Filed 11–20–91; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Biological and Critical Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Biological and Critical Systems (BCS).

Date & Time: December 10–11, 1991.

Place: One Washington Circle Hotel, Washington, DC 20550.

Type of Meeting: Open.

Contact Person: Dr. Dov Jaron, Division Director, National Science Foundation, room 1132–A, Washington, DC 20550, Telephone 202–357–9545.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice, recommendations, and oversight concerning support for research, education, and human resources development in biological and critical systems.

Agenda: Discuss Committee of Visitor's report on BCS programs, review program activities, issues, and initiatives, and discuss infrastructure goals of the Division.

Dated: November 15, 1991.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91–27995 Filed 11–20–91; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Cross-Disciplinary Activities

SUMMARY: In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate proposals and provide advice and recommendations as part of the selection process for awards. Because the proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Name: Special Emphasis Panel in Cross-Disciplinary Activities.

Dates and Times: December 9, 1991. 8:30 am-5 pm.

Location: National Science Foundation, 1800 G Street, NW., Washington, DC 20550, Rooms 523, 536, 1242.

Type of Meeting: Closed.

Agenda: Review and evaluate Research Experiences for Undergraduates proposals.

Contact Person: Caroline Wardle, room 436, National Science Foundation, Washington, DC 20550, Telephone (202) 357–7349.

Dated: November 13, 1991.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91–27996 Filed 11–20–91; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Information, Robotics and Intelligent Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Committee for Information, Robotics and Intelligent Systems (IRIS).

Dates and times: December 12, 1991, 8:30 a.m–5 p.m.; December 13, 1991, 8:30 a.m.–3 p.m.

Place: Rooms 1242 & 1243, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Open.

Contact Person: Dr. Y.T. Chien, Division Director, National Science Foundation, Washington, DC 20550. Telephone: (202) 357–9572.

Purpose of Meeting: Provide advice from the scientific community on needs and trends in the areas of IRIS funding and suggest improvements to enhance the performance of research and science infrastructure.

Agenda:

Thursday, December 12

8:30 a.m. Welcome
9 a.m. Meeting with Dr. Nico Habermann, Assistant Director, CISE
10 a.m. Division and Program Review—Dr. Y.T. Chien
12 p.m. Working Lunch
Report by Brian Carlisle—Industrial Robotics
1 p.m. Brief Workshop Reports
—Human Computer Interaction
—Esprit/NSF/Darpa/ Collaboration
—Upcoming Workshops
3 p.m. Committee Discussions
5 p.m. Adjourn

Friday, December 13

8:30 a.m. Report on the High Performance Computing & Communications Initiative
9 a.m. Presentation on Darpa's Programs
9:30 a.m. Committee Discussions and/or Breakout Sessions
12:30 p.m. Working Lunch
1:30 p.m. Committee Business (administrative)
2 p.m. Meeting with Dr. Massey, Director/ NSF (tentative)
3 p.m. Adjourn.

Dated: November 14, 1991.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91–27997 Filed 11–20–91; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Instrumentation and Resources; Meeting

The National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Instrumentation and Resources.

Dates and Times: Monday, December 9, 1991 from 7:30–9; Tuesday, December 10, 1991 from 8:30–5; Wednesday, December 11, 1991 from 8:30–12.

Place: The River Inn, 924 Twenty-fifth Street, NW., Washington, DC 20037.

Type of Meeting: Closed.

Contact Person: Ms. Joanne G. Hazlett, Program Manager, Cross Directorate Activities, National Science Foundation, room 312, Washington, DC 20550, Telephone: 202–357–9880.

Agenda: To review and evaluate REU proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Dated: November 13, 1991.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91-27998 Filed 11-20-91; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panels in Materials Research; Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meetings.

SUPPLEMENTARY INFORMATION: The purpose of the meetings is to review and evaluate proposals and provide advice and recommendations as part of the selection process for awards. Because the proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Name: Special Emphasis Panel in Materials Research.

Dates & Times: December 10, 1991—7 p.m.–10 p.m.; December 11–12, 1991—8 a.m.–5 p.m.

Location: Ramada Renaissance Hotel (at Ballston Metro Center), 930 North Stafford Street, Arlington, Virginia 22203.

Type of Meeting: Closed.

Agenda: Provide advice and recommendations concerning support for Materials Research Laboratories.

Contact Person: Dr. W. Lance Haworth, room 408, National Science Foundation, Washington, DC 20550 Telephone (202) 357–9791.

Name: Special Emphasis Panel in Materials Research.

Dates & Times: December 12, 1991—8:30 a.m.–5 p.m.

Location: National Science Foundation, 1800 G Street, NW., Washington, DC 20550, room 410.

Type of Meeting: Closed.

Agenda: Provide advice and recommendations concerning support for Division of Materials Research 1992 Research for Undergraduates Site Awards Competition.

Contact Person: Dr. John C. Hurt, room 408, National Science Foundation, Washington, DC 20550, Telephone (202) 357–9791.

Dated: November 13, 1991.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91-27999 Filed 11-20-91; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Materials Research; Meeting

The National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Materials Research.

Dates: December 13 and 14, 1991.

Location: National Institute of Standards and Technology Gaithersburg, Maryland.

Time: 8 a.m. to 5 p.m., each day.

Type of Meeting: Closed.

Contact Person: Dr. Lorretta J. Inglehart, Program Director, National Facilities and Instrumentation, Division of Materials Research, room 408, National Science Foundation, Washington, DC 20550 Telephone: (202) 357–9791.

Purpose of Meeting: To provide advice and recommendations concerning the support for the National Institute of Standards and Technology Center for High Resolution Neutron Scattering proposal.

Agenda: Review of the National Institute of Standards and Technology Center for High Resolution Neutron Scattering Proposal.

Reason for Closing: The proposal being reviewed includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposal. These matters are within exemption (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Dated: November 13, 1991.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91-28000 Filed 11-20-91; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Microelectronic Information Processing Systems; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Committee for Microelectronic Information Processing Systems.

Dates and Times: December 12, 1991—8:30 a.m.–6 p.m.; December 13, 1991—8:15 a.m.–3 p.m.

Place: National Science Foundation, 1800 G Street, NW., Washington, DC, Conference Room 543.

Type of Meeting: Open.

Contact Person: John R. Lehmann, Deputy Division Director, Microelectronic Information Processing Systems, National Science Foundation, 202–357–7853.

Minutes: May be obtained from contact person listed above.

Purpose of Meeting: To discuss the content of the Division's program goals and objectives and to advise on areas and priorities, new initiatives and other topics of interest to the Division.

Agenda: Overview of the Division since the last meeting. Continuation of strategic planning for initiatives.

Dated: November 14, 1991.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91-28001 Filed 11-20-91; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 40-8857]

Final Finding of no Significant Impact Regarding the Revised Source Material License SUA-1511 for Operation of the Highland Uranium Project, Located in Converse County, WY, by Power Resources, Inc.

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of final finding of no significant impact.

1. Proposed Action

The proposed administrative action is to issue a revised source and byproduct material license which will authorize Power Resources, Inc. (PRI) to expand in situ leach uranium recovery operations at the Highland Uranium Project located in Converse County, Wyoming.

2. Reasons for Final Finding of No Significant Impact

An environmental assessment for the expansion of the in situ leach uranium recovery site, the Highland Uranium Project, was prepared by the U.S. Nuclear Regulatory Commission staff and issued by the Commission's Uranium Recovery Field Office, Region IV. The environmental assessment evaluated potential onsite and offsite impacts due to radiological release that may occur as a result of mining operation expansion. Documents used in preparing the assessment include the environmental assessment dated July 1987, for the existing in situ leach uranium recovery facility operated by PRI, the revised license application submitted by PRI under cover letter dated March 20, 1991, and operational data from the existing operation which lies adjacent to the area proposed for expansion. The final environmental impact statement dated November 1978, and prepared by the Commission's staff for the initial Research and Development facility owned by Exxon Coal and Minerals Corporation was also referenced. Upon review of these documents, the Commission has determined that no significant impacts will result from the proposed activity and that an addendum to the existing

environmental impact statement is not warranted.

The public was informed of the availability of the Finding of No Significant Impact by way of an October 3, 1991, Federal Register publication. A subsequent 30-day comment period expired November 3, 1991. No public comments were received on the proposed action.

In accordance with 10 CFR 51.33(e), the Deputy Director, Uranium Recovery Field Office, made the determination to issue a final finding of no significant impact in the Federal Register. Concurrent with this finding, the staff will issue the revised Source Material License SUA–1511 which authorizes operation by Power Resources, Inc., of the Highland Uranium Project, Converse County, Wyoming.

This finding, together with documents setting forth the basis for the finding, is available for public inspection and copying at the Commission's Uranium Recovery Field Office located at 730 Simms Street, suite 100, Golden, Colorado, and at the Commission's Public Document Room at 2120 L Street NW., Washington, DC.

Dated at Denver, Colorado, this 14th day of November, 1991.

For the Nuclear Regulatory Commission.

Edward F. Hawkins,

Deputy Director, Uranium Recovery Field Office.

[FR Doc. 91–28026 Filed 11–20–91; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 30–31570; License No. 35–27026–01; IA 91–001]

Patrick K.C. Chun, M.D.; Order Prohibiting Involvement in Certain NRC-Licensed Activities (Effective Immediately)

I

Patrick K.C. Chun, M.D., (Licensee) home address deleted under 10 CFR 2.790 is the holder of Materials License No. 35–27026–01 (License) issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR parts 30 and 35. The License authorizes the possession and use of radiopharmaceuticals in nuclear medicine activities described in 10 CFR 35.100 and 35.200. The License, which was scheduled to expire on March 31, 1995, is being terminated, as requested by the Licensee in January 1991, by the issuance of a license amendment enclosed with this Order.

II

In an application dated February 14, 1990, Patrick K.C. Chun, M.D., requested an amendment to NRC License No. 13–23664–01, which was issued in his name, to reflect the fact that he was relocating his medical practice from Terre Haute, Indiana, to Tulsa, Oklahoma. In subsequent conversations and correspondence between NRC personnel in NRC's Region IV office in Arlington, Texas, and the Licensee, the Licensee was asked to clarify his association with the Tulsa Heart Center (THC), with which the Licensee's practice appeared to be affiliated. NRC's interest in this matter was based on its attempt to determine the person to be responsible for licensed activity and whether the License should be issued in Dr. Chun's name, as he requested, or in the name of the THC, a corporation.

On several occasions in February and March 1990, the Licensee told NRC personnel that his nuclear cardiology practice was separate from the THC. To support this, he told NRC personnel that the technologist who worked for him was employed by him, and that his patients would be billed in his name, not that of the THC. In a letter to NRC Region IV dated March 23, 1990, the Licensee stated, "This is not a medical institution, but a private practice." Based on the Licensee's representations, NRC Region IV issued a new License on March 27, 1990, in Dr. Chun's name. On the date the license was issued, NRC called the Licensee and was assured again that his practice was independent of the THC. During an NRC inspection in August 1990, the Licensee told an NRC inspector that he (the Licensee) owned the nuclear cardiology equipment, that he paid the technologist, that patients were billed in his name and that his practice was completely separate from the THC.

In January 1991, the Licensee requested termination of NRC License No. 35–27026–01. In subsequent conversations between representatives of the THC, who were interested in obtaining an NRC license for another nuclear cardiologist, and NRC Region IV personnel, it became apparent that the Licensee had misrepresented his association with the THC. THC officials told NRC that the Licensee was an employee of the THC, that the THC owned the building in which the Licensee had practiced, and that the THC paid all of the bills associated with the Licensee's practice, including the costs of obtaining a license in Dr. Chun's name and the salary of the Licensee's technologist. Based on this information, NRC's Office of Investigations (OI) opened an investigation to determine whether the Licensee had willfully misrepresented his association with the THC in applying for his NRC license. OI interviewed the Licensee, several THC representatives and NRC personnel and concluded that the Licensee had willfully provided false information to the NRC during the licensing process.

III

NRC must be able to rely on the accuracy of information provided it by applicants for licenses and by licensees. The integrity of NRC's regulatory programs rests, to a large degree, on the integrity of its licensees. NRC regulations in 10 CFR 30.9, entitled "Completeness and accuracy of information," require information provided to the Commission by an applicant for a license or by a licensee to be complete and accurate in all material respects. The Licensee's misrepresentations to the NRC violated this requirement and have raised serious doubt as to whether he can be relied upon to adhere to the requirements that apply to any license holder. A licensee's willful violation of Commission requirements and false statements to Commission officials cannot and will not be tolerated.

Consequently, I lack the requisite reasonable assurance that Dr. Chun would conduct NRC-licensed activities in compliance with the Commission's requirements, and that the health and safety of the public would be protected, if Dr. Chun were permitted at this time to hold an NRC license or be named in any capacity on an NRC license. Therefore, the public health, safety and interest require that the Licensee be prohibited from holding an NRC license or being named on an NRC license in any capacity for a period of one year from the date of this Order. Furthermore, pursuant to 10 CFR 2.202, I find that the public health, safety and interest require that this Order be immediately effective.

IV

Accordingly, pursuant to sections 81, 161b, 161c, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 30, *It is hereby ordered, effective immediately,* that:

A. Patrick K.C. Chun, M.D., is prohibited for one year from the date of this order from holding an NRC license or being named on an NRC license in any capacity; and

B. For the following two years, Dr. Chun shall provide the following notice to the NRC:

1. For work activities that require Dr. Chun being named on an NRC license (e.g. radiation safety officer or authorized user), Dr. Chun shall provide

a copy of the license application or amendment to the director, Office of Enforcement (OE), at the same time that the application or amendment is sent to the NRC licensing office along with the information required below.

2. For work activities that do not require Dr. Chun to be named on an NRC license, Dr. Chun shall provide the director, OE, with two weeks notice prior to performing any activities as an authorized user.

In both instances, the notice shall include assurance that he can be relied upon to comply with all commission requirements, including that of providing complete and accurate information to the commission, the nature and location of the licensed activities, as well as the type of material involved.

The Regional Administrator, NRC Region IV, may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

V

Dr. Chun must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order within 20 days of the date of this Order. The answer shall set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued, and shall comply in all other respects with 10 CFR 2.202. Any answer filed within 20 days of the date of this Order may include a request for a hearing. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Chief, Docketing and Service Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC. 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011, and to Dr. Chun if the answer or hearing request is by a person other than Dr. Chun. If a person other than Dr. Chun requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Dr. Chun or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

In the absence of any request for hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland this 12th day of November 1991.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support.

[FR Doc. 91-28025 Filed 11-20-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289]

GPU Nuclear Corp., et al. (Three Mile Island Nuclear Station, Unit No. 1); Exemption

I

GPU Nuclear Corporation (GPUN/licensee) and three co-owners hold Facility Operating License No. DPR-50, which authorizes operation of the Three Mile Island Nuclear Station, Unit No. 1 (TMI-1) (the facility) at power levels not in excess of 2568 megawatts thermal. This license provides, among other things, that the facility is subject to all rules, regulations, and Orders of the Nuclear Regulatory Commission (the Commission or the staff) now or hereafter in effect.

The facility is a pressurized water reactor located at the licensee's site in Dauphin County, Pennsylvania.

II

During a meeting on January 18, 1991, GPUN informed the NRC staff of its intention to install, under the provisions of 10 CFR 50.59, four lead test assembles (LTAs) during the October 1991 refueling, two of which would contain Zirlo cladding. Zirlo is a Westinghouse Electric Company trade name for an alloy of zirconium. GPUN confirmed its intention in a letter to the NRC dated October 9, 1991.

III

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health and safety, and are consistent with the common defense and security; and (2) when special circumstances are present. According to 10 CFR 50.12(a)(2)(ii), special circumstances are present when "Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule * * *."

Title 10 of the Code of Federal Regulations, § 50.46 states:

> Each boiling and pressurized light-water nuclear power reactor fueled with uranium oxide pellets within cylindrical Zircaloy cladding must be provided with an emergency core cooling system (ECCS) that must be designed such that its calculated cooling performance following postulated loss-of-coolant accidents conforms to the criteria set forth in paragraph (b) of this section. ECCS cooling performance must be calculated in accordance with an acceptable evaluation model and must be calculated for a number of postulated loss-of-coolant accidents of different sizes, locations, and other properties sufficient to provide assurance that the most severe postulated loss-of-coolant accidents are calculated.

Section 50.46 then goes on to give specifications for peak cladding temperature, maximum cladding oxidation, maximum hydrogen generation, coolable geometry, and long term cooling. Since § 50.46 specifically refers to fuels with Zircaloy cladding, the use of fuel with Zirlo cladding would, in effect, place the licensee outside the applicability of this section of the Code.

The underlying purpose of the rule is to ensure that facilities have adequate acceptance criteria for ECCS. The effectiveness of the ECCS will not be affected by a change from Zircaloy to Zirlo cladding. The licensee and its contractor, Westinghouse, have performed calculations that demonstrate the adequacy of this ECCS for Zirlo test assemblies; therefore, due to the similarities in the material properties of Zircaloy and Zirlo, the acceptability criteria for ECCS applied to reactors fueled with Zircaloy clad fuel are also applicable to the ECCS for Zirlo clad test assemblies at TMI-1. An evaluation of the acceptability of Zirlo clad fuel may be found in an NRC Safety Evaluation (SE) for the Virgil C. Summer Nuclear Station dated October 22, 1991 and in generic SEs dated July 1 and October 9, 1991, approving Westinghouse Topical Report WCAP-12610. Strict interpretation of the regulation would render the criteria of 10 CFR 50.46 inapplicable to Zirlo, even though analysis shows that applying the Zircaloy criteria to Zirlo fuel yields acceptable results. Application of the regulation in this instance would not meet the underlying purpose of the rule

for these test assemblies; therefore, special circumstances exist. The Commission, therefore, on its own initiative, has taken under consideration an exemption from 10 CFR 50.46(a)(1)(i) that would allow the licensee to apply the acceptance criteria of 10 CFR 50.46 to a reactor core containing Zirlo clad fuel.

Section 50.44 provides requirements for control of hydrogen gas generated in part by Zircaloy clad fuel after a postulated loss-of-coolant accident (LOCA). The intent of this rule is clearly to ensure that there is an adequate means of controlling generated hydrogen. The hydrogen produced in a post-LOCA scenario comes from a metal-water reaction. Metal-water reaction rate, as determined by applying the Baker-Just equation has been shown to be conservative for Zirlo clad fuel; therefore, the amount of hydrogen generated by metal-water reaction in a core containing Zirlo will be within the design basis. An evaluation of the acceptability of Zirlo clad fuel is contained in the staff's SEs dated July 1, October 9, and October 22, 1991. A strict interpretation of the rule in this instance would result in the criteria of 10 CFR 50.44 being inapplicable to Zirlo. Since application of the regulation would not meet the underlying purpose of the rule, special circumstances exist. The Commission, therefore, on its own initiative, has taken under consideration an exemption to 10 CFR 50.44(a) that would allow the licensee to apply the requirements of 10 CFR 50.44 to a reactor core containing Zirlo clad fuel.

Paragraph I.A.5 of appendix K to 10 CFR part 50 states that the rates of energy release, hydrogen generation, and cladding oxidation from the metal-water reaction shall be calculated using the Baker-Just equation. The Baker-Just equation presumes the use of Zircaloy clad fuel. The intent of this part of the appendix, however, is to apply an equation that conservatively bounds all post-LOCA scenarios. Due to the similarities in the composition of Zirlo and Zircaloy, the application of the Baker-Just equation in the analysis of Zirlo clad fuel will conservatively bound all post-LOCA scenarios. A complete evaluation of the acceptability of Zirlo clad fuel is contained in the staff's SEs dated July 1, October 9, and October 22, 1991. Since the use of the Baker-Just equation presupposes Zircaloy cladding, and since failure to apply Baker-Just would defeat the purpose of paragraph I.A.5 of appendix K given that post-LOCA scenarios will be conservatively bounded, special circumstances exist. The Commission, therefore, on its own initiative, is considering an exemption from paragraph I.A.5 of appendix K to 10 CFR part 50 that would allow the licensee to apply the Baker-Just equation to Zirlo clad fuel.

IV

Accordingly, the Commission has determined, pursuant to 10 CFR 50.12, that the exemptions as described in Section III are authorized by law, will not endanger life or property, and are otherwise in the public interest. The Commission has also determined that special circumstances exist pursuant to 10 CFR 50.12(a)(2)(ii). Therefore, the Commission hereby grants the following exemptions:

(1) GPU Nuclear Corporation is exempt from the requirements of 10 CFR 50.46(a)(1)(i) in that the acceptance criteria for emergency core cooling systems given in 10 CFR 50.46 for reactors using Zircaloy clad fuel may also be applied to the TMI–1 lead test assemblies using Zirlo clad fuel.

(2) GPU Nuclear Corporation is exempt from the requirements of 10 CFR 50.44(a) in that the requirements for hydrogen gas control given in 10 CFR 50.44 for reactors using Zircaloy clad fuel may also be applied to the TMI–1 lead test assemblies using Zirlo clad fuel.

(3) GPU Nuclear Corporation is exempt from the requirements of paragraph I.A.5 of Appendix K to 10 CFR part 50 in that the Baker-Just equation, which presumes the use of Zircaloy clad fuel, is also applicable when using Zirlo clad fuel at TMI–1.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of these exemptions will have no significant impact on the quality of the human environment (56 FR 57904).

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 14th day of November 1991.

Gus C. Lainas,

Acting Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91–28024 Filed 11–20–91; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Notice of Meetings

The Office of Personnel Management announces the following meetings:

Name: Pay-for-Performance Labor-Management Committee Performance Management and Recognition System Review Committee

Dates and times: Pay-for-Performance Labor-Management Committee—November 26, 1991, 2:30 p.m. to 3:30 p.m.; Performance Management and Recognition System Review Committee—November 26, 1991, 3:45 p.m. to 4:45 p.m.

Place: Office of Personnel Management, 1900 E Street NW., Washington, DC 20415–0001. Meetings will be held in room 1350.

Type of meeting: Open.

Point of contact: Ms. Doris Hausser, Chief of the Performance Management Division, room 7454, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415–0001.

Purpose of meeting: To consider ways to strengthen the linkage between performance of General Schedule employees and their pay.

Agenda: Introductory remarks; presentation of recommendations; comments and observations; public input; closing.

Supplementary information: The Pay-for-Performance Labor-Management Committee and the Performance Management and Recognition System Review Committee originally scheduled meetings on November 7, 1991, for presentation of their reports to the Director, Office of Personnel Management. Because of the need to schedule an additional meeting of the Pay-for-Performance Labor-Management Committee to provide more time for their deliberations, the committees are rescheduling their report presentations for November 26, 1991.

If received by COB: November 22, 1991.

Input will be considered at the meeting: November 26, 1991.

If time permits, the committees will consider oral presentations relating to agenda items. Persons wishing to address either or both of the committees orally at the meeting should submit a written request to be heard by the deadline listed above. The request must include the name and address of the person wishing to appear, the capacity in which the appearance will be made, a short summary of the intended presentation, and an estimate of the amount of time needed.

All communications regarding the committees should be addressed to the Point of Contact named above.

Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 91–28047 Filed 11–20–91; 8:45 am]

BILLING CODE 6325–01–M

RAILROAD RETIREMENT BOARD

1992 Monthly Compensation Base and Other Determinations

AGENCY: Railroad Retirement Board.

ACTION: Notice.

SUMMARY: Pursuant to section 12(r)(3) of the Railroad Unemployment Insurance Act (Act) (45 U.S.C. 362(r)(3)), the Board gives notice of the following:

1. The monthly compensation base under section 1(i) of the Act is $785 for months in calendar year 1992;

2. The amount described in section 1(k) of the Act as "2.5 times the monthly compensation base" is $1,962.50 for base year (calendar year) 1992;

3. The amount described in section 2(c) of the Act as "an amount that bears the same ratio to $775 as the monthly compensation base for that year as computed under section 1(i) of this Act bears to $600" is $1,014 for months in calendar year 1992;

4. The amount described in section 3 of the Act as "2.5 times the monthly compensation base" is $1,962.50 for base year (calendar year) 1992;

5. The amount described in section 4(a-2)(i)(A) of the Act as "2.5 times the monthly compensation base" is $1,962.50 with respect to disqualification ending in calendar year 1992;

6. The maximum daily benefit rate under section 2(a)(3) of the Act is $33 with respect to days of unemployment and days of sickness in registration periods beginning after June 30, 1992.

DATES: The determinations made in notices (1) through (5) are effective January 1, 1992. The determination made in notice (6) is effective for registration periods beginning after June 30, 1992.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Timothy H. Hogueisson, Bureau of Research and Employment Accounts, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, telephone (312) 751–4789, (FTS) 386–4789.

SUPPLEMENTARY INFORMATION: The RRB is required by section 12(r)(3) of the Railroad Unemployment Insurance Act (Act) (45 U.S.C. 362(r)(3)) as amended by Public Law 100–647, to publish by December 11, 1991, the computation of the calendar year 1992 monthly compensation base (section 1(i) of the Act) and amounts described in sections 1(k), 2(c), 3 and 4(a-2)(i)(A) of the Act which are related to changes in the monthly compensation base. Also, the RRB is required to publish, by June 11, 1992, the maximum daily benefit rate under section 2(a)(3) of the Act for days of unemployment and days of sickness in registration periods beginning after June 30, 1992.

Monthly Compensation Base

For years after 1988, section 1(i) of the Act contains a formula for determining the monthly compensation base. Under the prescribed formula, the monthly compensation base increases by approximately two-thirds of the growth in average national wages. The monthly compensation base for months in calendar year 1992 shall be equal to the greater of (a) $600 and (b) $600 [1+((A-37,800)/56,700)], where A equals the amount of the applicable base with respect to tier 1 taxes for 1992 under section 3231(e)(2) of the Internal Revenue Code of 1986. Section 1(i) further provides that if the amount so determined is not a multiple of $5, it shall be rounded to the nearest multiple of $5.

The calendar year 1992 tier 1 tax base is $55,500. Subtracting $37,800 from $55,500 produces $17,700. Dividing $17,700 by $56,700 yields a ratio of 0.31216931. Adding one gives 1.31216931. Multiplying $600 by the amount 1.31216931 produces the amount of $787.30, which must then be rounded to $785. Accordingly, the monthly compensation base is determined to be $785 for months in calendar year 1992.

Amounts Related to Changes in Monthly Compensation Base

For years after 1988, sections 1(k), 2(c), 3 and 4(a-2)(i)(A) of the Act contain formulas for determining amounts related to the monthly compensation base.

Under section 1(k), remuneration earned from employment covered under the Act cannot be considered subsidiary remuneration if the employee's base year compensation is less than 2.5 times the monthly compensation base for months in such base year. Multiplying 2.5 by the calendar year 1992 monthly compensation base of $785 produces $1,962.50. Accordingly, the amount determined under section 1(k) is $1,962.50 for calendar year 1992.

Under section 2(c), the maximum amount of normal benefits paid for days of unemployment within a benefit year and the maximum amount of normal benefits paid for days of sickness within a benefit year shall not exceed an employee's compensation in the base year. In determining an employee's base year compensation, any money remuneration in a month not in excess of an amount that bears the same ratio to $775 as the monthly compensation base for that year bears to $600 shall be taken into account.

The calendar year 1992 monthly compensation base is $785. The ratio of $785 to $600 is 1.30833333. Multiplying 1.30833333 by $775 produces $1,014. Accordingly, the amount determined under section 2(c) is $1,014 for months in calendar year 1992.

Under section 3, an employee shall be a "qualified employee" if his/her base year compensation is not less than 2.5 times the monthly compensation base for months in such base year. Multiplying 2.5 by the calendar year 1992 monthly compensation base of $785 produces $1,962.50. Accordingly, the amount determined under section 3 is $1,962.50 for calendar year 1992.

Under section 4(a-2)(i)(A), an employee who leaves work voluntarily without good cause is disqualified from receiving unemployment benefits until he has been paid compensation of not less than 2.5 times the monthly compensation base for months in the calendar year in which the disqualification ends. Multiplying 2.5 by the calendar year 1992 monthly compensation base of $785 produces $1,962.50. Accordingly, the amount determined under section 4(a-2)(i)(A) is $1,962.50 for calendar year 1992.

Maximum Daily Benefit Rate

Section 2(a)(3) contains a formula for determining the maximum daily benefit rate for registration periods beginning after June 30, 1989, and after each June 30 thereafter. Under the prescribed formula, the maximum daily benefit rate increases by approximately two-thirds of the growth in average national wages. The maximum daily benefit rate for registration periods beginning after June 30, 1992, shall be equal to the greater of (a) $30 and (b) $25 [1+((A–600)/900)], where A equals the applicable base with respect to tier 1 taxes under section 3231(e)(2) of the Internal Revenue Code of 1986 divided by 60, with the quotient rounded down to the nearest multiple of $100. Section 2(a)(3) further provides that if the amount so computed is not a multiple of $1, it shall be rounded to the nearest multiple of $1.

The calendar year 1992 tier 1 tax base is $55.500. Dividing $55,500 by 60 yields $925. This amount is rounded down to $900, the nearest multiple of $100. Subtracting $600 from $900 produces $300. The ratio of $300 to $900 is 0.33333333. Adding 1 produces 1.33333333. Multiplying $25 by 1.33333333 produces $33.33, which must then be rounded to $33. Accordingly, the maximum daily benefit rate for days of unemployment and days of sickness beginning in registration periods after June 30, 1992, is determined to be $33.

Dated: November 15, 1991.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 91–28041 Filed 11–20–91; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-29944; International Series Release No. 343; File No. SR-DTC-91-6]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of a Proposed Rule Change Relating to Expansion of DTC's International Delivery System to Include Foreign Exchange Transactions

November 14, 1991.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 10, 1991, the Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Depository Trust Company ("DTC") is filing herewith a proposed rule change providing for expansion of DTC's IID system to include foreign exchange ("FX") transactions.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and statutory basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to provide a needed service to DTC Participants and others involved in FX transactions and to encourage greater use of DTC's IID system. Extending the IID system to foreign exchange transactions will apply IID's intra-day communication capabilities and standardization to the confirmations, affirmations, and settlement instructions for FX transactions. It will enable dealers to automate and standardize the confirmation and affirmation process with institutions that are not now participants in any automated confirmation network. This will be a major enhancement to FX processing.

The proposed rule change is consistent with the requirements of section 17A(b)(3)(A) of the Securities Exchange Act of 1934, ("Act") as amended, in that it promotes efficiencies in the clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

DTC has not formally solicited or received comments on its proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which DTC consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Those wishing to make a written submission should file six copies of the submission with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, subsequent amendments, written statements with respect to the proposed rule change that are filed with the Commission, and written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR-DTC-91-6 and should be submitted by December 12, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-28049 Filed 11-20-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-29932; File No. SR-MSE-91-03; SR-Phlx-90-24]

Self-Regulatory Organizations; Order Approving Proposed Rule Changes by the Midwest Stock Exchange, Inc. and the Philadelphia Stock Exchange, Inc., Relating to Options Communications to Customers

November 13, 1991.

The Midwest Stock Exchange, Inc. ("MSE") and the Philadelphia Stock Exchange, Inc. ("Phlx") (collectively referred to as the "Exchanges"), filed with the Securities and Exchange Commission ("Commission"), on January 9, 1991, and December 24, 1990, respectively, pursuant to section 19(b) of the Securities Exchanges Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] proposed rule changes to modify uniformly their rules governing options communications and the industry publication "Guidelines for Options Communications" ("Guidelines")[3] to reflect changes in the options market and the way these changes impact communications with the public.

The proposed rule changes were published for comment in Securities Exchange Act Release No. 28833 (January 29, 1991), 56 FR 4657 (February 5, 1991). No comments were received on the proposed rule changes.[4]

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[1] 15 U.S.C. 78s(b) (1988).

[2] 17 CFR 240.19b-4 (1990).

[3] The Guidelines are an industry-wide publication produced jointly by all the Self-Regulatory Organizations ("SROs") which are members of the Options Self-Regulatory Council ("OSRC"), and are distributed to all member firms. They are designed to amplify the standards contained in the SROs' options communications rules and thereby assist member firms in maintaining proper standards in their preparation of options-related communications with the public. The Guidelines, however, have not been amended since their initial publication in 1980.

[4] The MSE and the Phlx amended their proposals on October 21, 1991 and October 15, 1991, respectively, to clarify the standards for

Continued

In response to the SEC's comments contained in a letter, dated June 8, 1989, from Richard G. Ketchum, Director, Division of Market Regulation ("Division"), SEC, to Donald van Weezel, Chairman of the OSRC ("OSRC Letter"),[5] the MSE and the Phlx have filed amendments to their uniform rules concerning options communications with customers and have proposed various revisions to the Guidelines.[6] The OSRC Letter recommended greater uniformity and communication among the SROs in connection with the review of options advertisements, educational material, sales literature and options-related communications. The OSRC Letter also recommended that the SROs update and improve the Guidelines and provide for consistent application of the Guidelines by the SROs and their member firms. Accordingly, the Exchanges, in connection with the other SROs, proposed changes to the Guidelines to reflect, among other things, changes that have occurred in the options market in the last several years and address the introduction of new products. In connection with the amendments to the Guidelines, the Exchanges also proposed conforming amendments to their rules governing options-related communications.

Specifically, the amendments to the Exchange's rules:[7] (1) Apply the options communication requirements contained in these rules to educational materials;[8] (2) delete the requirement that options communications be in "good taste"; (3) clarify the term "advertisement" to include sales material that reaches a mass audience through any telecommunications device; (4) strengthen the application of the options communication requirements by replacing the word "should" with the word "shall," thus emphasizing that these requirements are mandatory; (5) allow member organizations to use standardized options worksheets for each product type;[9] and (6) allow Registered Representatives to provide in sales literature records or statistics which portray their own past performance or actual transactions instead of those of the members organization as a whole, provided it is done within the context of the requirements of the Exchanges' options communications rules.

The amendments to the Guidelines, in addition to incorporating the above-mentioned changes to the Exchanges' rules, add language to explain the significance of a review of an options communication by an SRO. The revised Guidelines state that an SRO review of an options communication is not an endorsement of the investment plan or its suitability for investors, but rather a review to determine if the information contained in the communication is consistent with the requirements of the rules of an SRO. In this regard, the Guidelines specifically state that SRO approval does not imply that the SRO has determined that the information contained in such communication is accurate or complete. The amendments to the Guidelines also reiterate SRO rules that require member firms to maintain records which evidence the name(s) of the person(s) who prepared the options communications and the name(s) of the person(s) who approved the material, which records must be kept in an easily accessible place for examination by the SRO for a period of three years.

The amendments to the Guidelines also provide more particularity with respect to the standards by which options communications should be prepared and reviewed by firms and reiterate that recommendations and past or projected performance figures are not permitted in any advertisement or educational material, only sales literature. In this regard, the amendments also clarify the standards with respect to whether hypothetical examples constitute projected performance figures.[10] Specifically, the amendments provide that examples of profitable options transactions which use hypothetical securities and prices are not considered projected performance figures and are permitted in educational material so long as no suggestion is made that profits are probable. The amendments also require that a statement be included to the effect that the hypothetical examples were constructed only for illustration purposes. In addition, regardless of whether real or hypothetical options transactions are used, the Guidelines reiterate that examples of profitable options transactions must be accompanied by examples of breakeven situations as well as a description of the risks.

In addition, the proposed amendments to the Guidelines provide that any communication that discusses the uses or advantages of a particular options strategy should disclose the fact that commissions and other costs may be a significant factor. Previously, the Guidelines stated that advertisements or sales literature only had to reflect the fact that a subsequent exercise or closing transaction would be subject to commission charges. The Guidelines are also amended to provide that no statement contained in an options communication may suggest that a secondary market for standardized options will always be available.

Further, the amendments to the Guidelines establish criteria for firms to consider when determining whether or not a particular investment approach could be deemed an options program. If an options program is deemed to exist, prior to becoming involved in the program, customers must be furnished with a written explanation of the nature, risks, the cumulative history or unproven nature of the program and its underlying assumptions. Any written explanation or promotional material about a particular options program must also meet the requirements of the Exchanges as they apply to communications with the public.

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determining whether a particular investment approach may constitute an options program. These amendments were not separately noticed for comment because they are non-substantive in nature, as they are merely designed to clarify the standards contained in the Exchange's proposed rule changes as to the role of member firms in determining whether an options program exists.

[5] Pursuant to Rule 17d–2 under the Act, the SROs which are members of the OSRC reached an agreement to allocate options regulatory responsibilities for common members. As part of this agreement, the SROs formed the OSRC which is comprised of one representative of each SRO participating in the agreement. The SROs which are members of the OSRC are the American Stock Exchange, Inc. ("Amex"), the Chicago Board Options Exchange, Inc. ("CBOE"), the MSE, the National Association of Securities Dealers, Inc. ("NASD"), the New York Stock Exchange, Inc. ("NYSE"), the Pacific Stock Exchange, Inc. ("PSE"), and the Phlx.

[6] On September 13, 1991, the Commission approved identical rule changes proposed by the Amex, CBOE, NASD, NYSE, and PSE. See Securities Exchange Release No. 29682 (September 13, 1991), 56 FR 47973 (September 23, 1991).

[7] The MSE proposes to amend MSE Rule 4 and the Phlx proposes to amend Phlx Rule 1049.

[8] In particular, with respect to educational material, the Guidelines, define such communications to include any explanatory material distributed or made generally available to customers or the public that is limited to information describing the general nature of the standardized options markets or one or more strategies and conforms with Rule 134a of the Securities Act of 1933. More specifically, the Guidelines state that communications which discuss definitions (*i.e.*, calls and puts), contract specifications market operations, and common options strategies constitute educational material. The Guidelines also state that recommendations, specific or implied, are prohibited in educational material, as well as past or projected performance figures and annualized rates of return.

[9] Earnings projections for various options strategies are commonly provided to customers by means of worksheets.

[10] A principal distinction between sales literature, which is not subject to pre-use approval, and educational material, which is, is that educational material can not contain any past or projected performance figures, annualized rates of return, or recommendations.

Additionally, the amendments require, rather than suggest, that options communications must contain a warning statement that options are not suitable for all investors when discussing the uses and advantages of options. The amendments also replace the reference in the Guidelines to the Options Clearing Corporation prospectus with a reference to the options disclosure document, and reiterate the requirement that member firms must comply with the provisions of the Securities Investors Protection Corporation ("SIPC") by-laws promulgated under the Securities Investors Protection Act that require disclosure of SIPC membership.

The Guidelines also were amended to provide a list of some of the risks of trading in index options that should be disclosed in communications dealing with index options, as well as a description of the risks of uncovered options writing, combination writing, and other complex options strategies that should be disclosed in communications dealing with these strategies. With regard to communications dealing with uncovered writing, the Guidelines also suggest that the Special Statement for Uncovered Writers ("Special Statement") be offered in such communications.[11]

Lastly, the Guidelines were amended to provide that member firms are strongly recommended, when preparing communications discussing a new options product, to discuss the distinguishing features and unique risks of the new product. The amendments also provide more examples of problem areas that member firms should avoid when preparing options communications. For example, the Guidelines state, among other things, that the use of language which expresses certainty with respect to the benefits of specific options transactions should be avoided.

The Exchanges believe that the proposed rule changes are consistent with section 6(b) of the Act, in general, and further the objectives of section 6(b)(5), in particular, in that they are designed to promote just and equitable principles of trade and protect investors and the public interest.

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6.[12] Specifically, the Commission believes that the proposals are consistent with section 6(b)(5) in that they will protect investors and the public interest by improving the Guidelines. The Commission notes that the proposals were submitted by the Exchanges to comply with recommendations made by the Division in the OSRC Letter. These recommendations, which are reflected in the proposed amendments to the Guidelines, were designed to update the Guidelines to address regulatory and market developments since 1980 and to provide more specific guidance in several areas.[13]

In addition, the Commission believes that the revised Guidelines and SRO rules will provide member firms with more specific direction in the preparation of options-related communications. The Commission believes adherence to these more detailed standards by member firms will, in turn, prevent the dissemination of misleading or inaccurate options communications to investors. The Commission also believes that more detailed guidance will facilitate uniformity among the SROs in their review of options communications.

Specifically, the Commission believes that clarifying the disclosure required concerning commission charges, the availability of secondary options markets, SIPC membership, and statements regarding the suitability of options, as well as clarifying the use of past and projected performance figures in options communications, the use of worksheets, and member firm record retention requirements will serve to provide member firms with more direction in preparing options communications. Similarly, the Commission notes that strengthening the wording of SRO rules and the Guidelines to use the word "shall" instead of "should," expanding the list of problem areas highlighted in the Guidelines, and clarifying what constitutes an options program in the Guidelines should provide member firms with better direction in the preparation of options communications.

The Commission also believes that updating the Guidelines and SRO rules to reflect developments in the options industry since the Guidelines were first published will provide better guidance to member firms. Specifically, the revised Guidelines describe with more particularity the risks of trading in index options, uncovered options writing, and other complex options strategies that member firms should discuss when preparing options communications dealing with these topics. The Guidelines also strongly suggest that member firms describe the unique characteristics and risks of new options products when preparing communications about these products.

In addition, the Commission believes it is consistent with the Act for the Exchanges to delete the requirement that options communications be in "good taste." Because the "good taste" test is subjective in nature, the Commission agrees with the exchanges that it is difficult to be imposed with any uniformity. Nevertheless, because of other objective standards contained in the Exchanges' options communications rules and the Guidelines, deletion of the "good taste" test does not mean that options communication can be in "poor taste." Prohibitions against misleading, untruthful or exaggerated statements, among other things, will still be contained in the Exchanges' options communication rules and apply to all options communications.

Moreover, the Commission believes it is consistent with the Act for the Exchanges to amend the Guidelines to clarify the effect of an SRO review of an options communication. Specifically, the Commission believes it is reasonable for the exchanges to state clearly that their review process is limited strictly to determining whether the manner and form of a proposed options communication is in compliance with their respective rules. The Commission also believes it is reasonable for the Guidelines to provide that an SRO review should not be construed as an endorsement of the options communication. The Commission believes to do otherwise would place the Exchanges in a position of guaranteeing the accuracy, veracity, and completeness of options communications, which task would be overly burdensome for the Exchanges and rightfully belongs with the creators of the options communications, the member firms. In this regard, the Commission notes, as do the Guidelines,

[11] See Securities Exchange Act release No. 26952 (June 21, 1989) 54 FR 27256 (June 28, 1989) (order approving File Nos. SR-Amex-89-03, SR-CBOE-89-01, SR-NASD-89-17, SR-Phlx-89-17, SR-PSE-89-14). Member organizations are required to provide the Special Statement to options customers who intend to engage in uncovered writing.

[12] 15 U.S.C. 78f(b)(5) (1988).

[13] Consistent with the OSRC Letter, the Commission notes that any significant future changes to the Guidelines should be filed pursuant to section 19(b)(1) of the Act. Section 19(b)(3)(A) provides that a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule constitutes a proposed rule change which is entitled to take effect upon filing with the Commission. Accordingly, to the extent that future revisions to the Guidelines modify a stated policy, practice, or interpretation or create additional standards or specificity about conduct, they must be filed, at a minimum, pursuant section 19(b)(3)(A) of the Act and, depending upon the substance of the modifications, section 19(b)(1).

that an SRO review does not relieve a member firm of its responsibility to comply with all other applicable provisions of SRO rules and the Federal Securities Laws.

Finally, the Commission believes it is reasonable for the Exchanges to update the term "advertisement" in their rules to encompass communications made via telecommunication devices and address the standards by which educational material should be reviewed.[14]

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[15] that the proposed rule changes (SR–MSE–91–03 and SR-Phlx-90–24) are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–28051 Filed 11–20–91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–29931; International Series Release No 342; File No. SR–NASD–91–59]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice and Order Granting Accelerated Approval to Proposed Rule Change Extending the Informational Linkage With the Stock Exchange of Singapore Ltd. for a 6 Month Period

November 12, 1991.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 6, 1991, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD has filed, pursuant to section 19(b)(1) of the Act and Rule 19b–4 thereunder, for Commission authorization to extend the operation of its Pilot Program with the Stock Exchange of Singapore, Limited ("SES") for six months. The Pilot Program currently consists of an interchange of closing price and volume data on up to 35 NASDAQ securities that are also traded through the SES's facilities. With the thirteen hour time difference (twelve hours during EDT), the trading hours of the SES and NASD markets do not overlap. The end-of-day information being exchanged under the Pilot Program may assist in the establishment of opening prices the following business day. The Pilot Program currently involves no automated order routing or execution capabilities, and no such capability will be established during the proposed extension.

The Commission originally authorized operation of the NASD-SES Pilot Program for a two-year term [1] that was recently extended through November 12, 1991.[2] Commission approval of the instant filing would permit continuation of this Pilot Program through May 12, 1992. During this interval, no more than 35 NASDAQ issues will be included in this Pilot Program. That figure corresponds to the number originally authorized at the inception of the Pilot Program in 1988. Additionally, the SES has modified the information being transmitted to the NASD to reflect the SES's use of an order-driven trading system known as the "CLOB" (Central Limit Order Book.)

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The NASD-SES Pilot Program commenced operation with the Commission's approval of File No. SR–NASD–87–40 on March 14, 1988. The principal features of this program were fully described in Section 1 of that form 19b–4, which description is hereby incorporated by reference.[3]

The current authorization of the NASD-SES Pilot Program will expire on November 12, 1991. The NASD, on its own as well as the SES's behalf, hereby requests that the Commission approve a further extension of the Pilot Program for 6 months, expiring on May 12, 1992.

During the proposed extension, each market will continue to transmit to the other static price/volume information compiled at the end of each trading day on approximately 35 NASDAQ securities. The NASD will transmit for each Pilot security the closing inside quotes, cumulative volume, last sale price (for NASDAQ/NMS issues only) and the closing quote of every NASDAQ market maker in each of the Pilot securities (collectively referred to as "NASD information.") In recognition of the SES's reliance on the order-driven CLOB system, the SES will transmit the following data elements for each Pilot security: Closing price (*i.e.,* the price of the final transaction in the CLOB on that business day), the highest and lowest prices at which transactions were effected and the aggregate volume (collectively referred to as "SES information.") [4] Because all trading of NASDAQ securities on the SES occurs in the CLOB, the price information sent to the NASD will reflect the prices of actual trades consummated by the automated matching of buy and sell orders present in the CLOB system.

The CLOB is a fully automated trading system that was instituted by the SES in 1989.[5] Prior to that time, the SES employed a quote-driven, market maker system similar to the NASDAQ system. Orders to buy and sell securities are entered into the CLOB through some

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[14] In 1982, the Commission adopted Rule 134a under the Securities Act of 1933 which first permitted the dissemination of educational or instructional material involving standardized options without such material being deemed a prospectus under section 2(10) of the Securities Act of 1933. As a result, the Guidelines and SRO rules needed to be updated to address the provisions of Rule 134a as they pertain to educational and instructional materials.

[15] 15 U.S.C. 78s(b) (1988).

[16] 17 CFR 200.30–3(a)(12 (1990).

[1] See Release No. 34–25457 (March 14, 1988), 53 FR 9156 (March 21, 1988).

[2] See Release No. 34–29188 (May 10, 1991), 56 FR 22699 (May 17, 1991), approving File No. SR–NASD–91–22. Consistent with the Commission's approval of File No. SR–NASD–91–22, the following NASDAQ issues were added to raise the universe of pilot issues back to the original ceiling of 35: Aldus Corp., Cetus Corp., Collagen Corp., Mentor Graphics, Miller (Herman), RPM, Inc., SEI Corp., United Arists Entertainment (Class A and B), and Washington Energy. Over time, issues may be dropped from the lineage due to relisting from NASDAQ.

[3] See also Release No. 34–25065 (October 28, 1987), 52 FR 42167 (November 3, 1987).

[4] If no trades are effected in a Pilot security on a given day, the SES will transmit no data on that issue even if bids or offers had been entered into the CLOB for possible execution.

[5] See letter from Lim Choo Peng, President, Stock Exchange of Singapore, dated November 7, 1991, to Kathryn V. Natale, Esq., Assistant Director, Division of Market Regulation, Securities and Exchange Commission, which explains how NASDAQ shares have been traded on the SES since the Exchange's implementation of the CLOB system in 1989.

1,800 trading terminals on the premises of 26 SES member firms. The CLOB provides an electronic limit order file with open orders ranked by price and time in each security. When the terms of two orders match, the CLOB generates an automated execution accompanied by confirmations back to the originating brokers.

Pursuant to Commission approval of the instant filing, the SES plans to incorporate the NASDAQ Pilot stocks into "CLOB International." The latter is a separate section of the SES market system for the trading of foreign issues that are not listed on the SES. These securities trade through the CLOB in the same manner as SES-listed securities. CLOB International currently includes the stocks of Malaysian, Hong Kong, and Philippine issuers. The SES regards inclusion of NASDAQ Pilot stocks in CLOB International as a logical step in the progression of the Pilot Program. Further, the SES believes that this step could stimulate greater trading interest in NASDAQ securities among Singapore investors. Accordingly, both the NASD and the SES desire to continue the Pilot Program.

The incorporation of NASDAQ securities into CLOB International will not alter basic operation of the Pilot Program, namely, the interchange of static, end-of-day information on the Pilot securities. SES information will continue to be offered only to subscribers of NASDAQ Level 2/3 services.[6] Similarly, NASD information transmitted to Singapore will be available only on the terminals used by SES members to access the exchange's CLOB system. The original linkage agreement between the NASD and the SES will remain in effect for the term of the extended Pilot Program. That agreement, which provides for the sharing of regulatory information as needed, is believed adequate given the limited nature and limited scope of the Pilot Program.[7]

[6] To retrieve this information, a NASDAQ subscriber must enter a discrete query through a NASDAQ Workstation device.

[7] Earlier this year the NASD responded to a request from the Commission staff regarding regulatory procedures covering the Pilot Program, including the sharing of information for regulatory purposes. See letter dated February 12, 1991 from Frank J. Wilson, Executive Vice President and General Counsel, NASD, to Kathryn V. Natale, Assistant Director, Division of Market Regulation, Securities and Exchange Commission. That letter is hereby incorporated by reference. See also note 5, *supra*. In its letter of November 7, 1991, the SES reiterated its commitment to disclose regulatory information as and when required for regulatory, enforcement or surveillance purposes.

Finally, the NASD acknowledges that any further enhancement to the Pilot Program, including the introduction of automated order routing and execution facilities, would require concurrent authorizations from the Commission and the Monetary Authority of Singapore. No such enhancement is planned for implementation during the requested extension.

Regarding the statutory basis for the extended Pilot Program, the NASD relies on sections 11A(a)(1)(B) and (C), 15A(b)(6), and 17A(a)(1) of the Act. Subsections (B) and (C) of Section 11A(a)(1) set forth the Congressional goals of achieving more efficient and effective market operations, the availability of information with respect to quotations for securities and the executions of investor orders in the best market through the application of new data processing and communications techniques. Section 15A(b)(6) requires that the rules of the NASD be designed "to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market * * *" Finally, section 17A(a)(1) reflects the Congressional goals of linking all clearance and settlement facilities and reducing costs involved in the clearance and settlement process through new data processing and communications techniques. The NASD submits that extension of the Pilot Program will further these ends by providing the cooperative regulatory environment and operating experience needed for advancement of these goals in the context of the internationalization of the securities markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

The extended Pilot Program will permit the continued exchange of static market data on a limited group of NASDAQ securities between the NASD and SES on a non-exclusive basis. The costs of supporting the Pilot Program are nominal, and the sponsoring markets absorb their respective costs. The market information being exchanged by the NASD and SES under the Pilot Program is deemed to constitute an exchange of equivalent value. Hence, no additional fee is paid by NASD and SES member firms for receipt of the static data being provided on Pilot securities.

The NASD submits that neither the structure nor operation of the present Pilot Program poses any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The NASD did not solicit or receive comments on this rule proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The NASD requests that the Commission find, pursuant to section 19(b)(2) of the Act, good cause for approving the proposed rule change prior to the 30th day after the date of publishing notice of the filing and, in any event, by November 12, 1991. The NASD believes that accelerated approval is appropriate for the following reasons: (1) The experimental character of the Pilot Program and the need to maintain continuity in its operation; (2) the commitment not to make any significant operational changes during the requested extension absent Commission approval; (3) the limited nature of the Pilot Program, both in terms of the number of Pilot securities and the amount of market information being exchanged; and (4) the limited utility of end-of-day, static information to the NASD and SES member firms capable of accessing, respectively, SES and NASD information. Moreover, during the period of the proposed extension, the sponsoring markets remain committed to exchange regulatory information whenever the need arises. Finally, if accelerated approval is not granted, the sponsors will be obliged to terminate this experimental program before its potential benefits can be realized in relation to the globalization of the securities markets.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of sections 11A(a)(1) (B) and (C), 15A(b)(6), 17A(a)(1) and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publishing of notice of filing thereof. The Commission believes that accelerated approval is appropriate to maintain continuity in the Pilot Program and to allow the sponsors to assess the impact of the modified SES information, the addition of 10 NASDAQ issues to the group of Pilot securities, and the anticipated trading of these securities in the international section of the SES's order-driven system. Further, the Pilot

Program is of a limited nature and no substantive changes will be implemented during the proposed extension. Accordingly, the Commission believes that the Pilot Program should not be terminated under these circumstances.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer File Number SR–NASD–91–59 and should be submitted by December 12, 1991.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that SR–NASD–91–59 be, and hereby is approved for a period of 6 months, through May 12, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–28050 Filed 11–20–91; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–18406; 811–5237]

Locust Street Fund; Notice of Application

November 13, 1991.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Locust Street Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N–8F was filed on September 5, 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 the 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 December 10, 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 may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 4900 Sears Tower, Chicago, Illinois 60606.

FOR FURTHER INFORMATION CONTACT: C. Christopher Sprague, Senior Staff Attorney, at (202) 272–3035, or Nancy M. Rappa, Branch Chief, 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, non-diversified management investment company that was organized as a Massachusetts business trust. On July 15, 1987, applicant registered an indefinite number of shares of its Tax-Exempt Money Market Portfolio (the "Money Portfolio") on Form N–1A under the Securities Act of 1933. The registration statement was declared effective on March 11, 1988, and applicant began the initial public offering of its shares shortly thereafter.

2. Centerland Fund is a Massachusetts business trust consisting of three series that is registered under the Act as an open-end management investment company. One of these series, the Short-Term Tax-Exempt Portfolio (the "Centerland Portfolio"), was organized by Centerland Fund specifically to effectuate the reorganization of the Money Portfolio. Like the Money Portfolio, the Centerland Portfolio is a money market fund.

3. In meetings held on February 19, 1991 and July 30, 1991, applicant's Board of Trustees approved an Agreement and Plan of Reorganization (the "Plan") which provided for: (a) The acquisition of all the assets and liabilities of the Money Portfolio by the Centerland Portfolio in exchange for units of beneficial interest of the Centerland Portfolio; (b) the distribution of such Centerland Portfolio units to the shareholders of the Money Portfolio in liquidation of applicant; and (c) the deregistration of applicant under the Act and its termination under state law.

4. On March 11, 1991, applicant filed the definitive form of proxy materials with the Commission, and began distributing those proxies to shareholders of the Money Portfolio. On April 24, 1991, the required majority of the Money Portfolio's outstanding shares approved the Plan.

5. As of July 31, 1991, the date immediately preceding implementation of the Plan, applicant had 162,727,180.67 outstanding shares, having an aggregate net asset value of $162,734,723.31, and a per share net asset value of $1.00.

6. On August 1, 1991, the Money Portfolio transferred its assets and liabilities to the Centerland Portfolio and in exchange, received units of the Centerland Portfolio equal in number and net asset value to the Money Portfolio's shares as of the time immediately preceding the reorganization. Immediately after the exchange, each Money Portfolio shareholder surrendered his or her shares for cancellation, and received in exchange an identical number of units of the Centerland Portfolio.

7. Applicant's expenses associated with the reorganization were borne by the Centerland Portfolio.

8. Applicant filed with the offices of the Massachusetts Secretary of State and the Boston City Clerk a written instrument of termination executed by its Board of Trustees and a written instrument of its president verifying shareholder approval of termination.

9. Applicant has no assets, debts or liabilities, nor any securityholders. There are no securityholders of applicant to whom a distribution in complete liquidation of their interests has not been made.

10. Applicant has not, within the last 18 months, transferred any of its assets to a separate trust, the beneficiaries of which were or are securityholders of applicant.

11. Applicant is not a party to any litigation or administrative proceeding.

12. Applicant is not now engaged, and does not propose to engage, in any business activity other than that needed to wind-up its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-28052 Filed 11-20-91; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18408; 811-5819]

Pascal Capital, Inc.; Notice of Application

November 14, 1991.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Pascal Capital, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on September 20, 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 December 10, 1991, and should be accompanied by proof of service on 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 isseus 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, c/o Banque Worms Management Corporation, 450 Park Avenue, New York, New York 10022.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Law Clerk, at (202) 272-3026, or Nancy M. Rappa, Branch Chief, 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, non-diversified management investment company that was organized as a corporation under the laws of Maryland. Applicant originally registered under the Act on June 1, 1989 and filed a registration statement on Form N-1A on August 23, 1989. Applicant filed a registration statement under the Securities Act of 1933 on August 23, 1989. Applicant's registration statement was never declared effective and applicant never commenced a public offering.

2. Between May 31, 1991 and June 2, 1991, applicant distributed $18,563,334.25 to its two shareholders pursuant to a request by these shareholders to redeem all of their shares.

3. There are no securityholders to whom distributions in complete liquidation of their interests has not been made. Applicant has no debts or other liabilities that remain outstanding, except those as may be incurred in the winding-up of its affairs. Applicant is not a party to any litigation or administrative proceeding.

4. Applicant intends to file articles of dissolution in the near future, pursuant to the unanimous written consent of its directors.

5. Applicant is not now engaged, nor does it propose 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, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-28053 Filed 11-20-91; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

[Docket No. 47830]

Pan American World Airways, Inc. Prehearing Conference

Notice is hereby given that a prehearing conference in this matter proceeding is assigned to be held on December 16, 1991, at 10 a.m. (local time), in room 5332, Nassif Building, 400 Seventh Street, SW., Washington, DC.

In order to facilitate the conduct of the conference, parties shall submit one copy to each party and two copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of position; and (5) proposed procedural dates. The Office of Aviation Enforcement and Proceedings (AEP) will circulate its materials on or before November 29, 1991, and the other parties on or before December 6, 1991. The submissions of the other parties shall be limited to points on which they differ with AEP and shall follow the numbering and lettering used by AEP to facilitate cross-referencing.

Dated at Washington DC, November 14, 1991.

Burton S. Kolko,

Administrative Law Judge.

[FR. Doc. 91-27986 Filed 11-20-91; 8:45 am]

BILLING CODE 4910-6-M

Federal Aviation Administration

[Summary Notice No. PE-91-40]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before December 11, 1991.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC-10), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

FOR FURTHER INFORMATION CONTACT: Mr. C. Nick Spithas, Office of Rulemaking (ARM-1), Federal Aviation

Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–9704.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC., on November 15, 1991.

Denise Castaldo,

Manager, Program Management Staff.

Petitions for Exemption

Docket No.: 25296.
Petitioner: Simmons Airlines, Inc.
Sections of the FAR Affected: 14 CFR 121.371(a) and 121.378.
Description of Relief Sought: To permit Simmons Airlines, Inc. to utilize certain foreign Original Equipment Manufacturers (OEM) to inspect, repair, and overhaul the components of the Aerospatiale ATR–42, ATR–72, and Short Brothers SD3–60 aircraft operated by Simmons Airlines.

Docket No.: 25702.
Petitioner: Braathens South American and Far East Airtransport A–S.
Sections of the FAR Affected: 14 CFR 21.197.
Description of Relief Sought: To extend Exemption No. 5135 which allows Braathens South American and Far East Airtransport A–S to conduct ferry flights of its U.S. registered Boeing 737 series aircraft.

Docket No.: 26612.
Petitioner: Mr. Anthony Bruni.
Sections of the FAR Affected: 14 CFR 65.71.
Description of Relief Sought: To allow Mr. Anthony Bruni to receive his Airframe and Powerplant licenses even though he is unable to speak.

Docket No.: 26659.
Petitioner: Mr. Patrick S. Carmean.
Sections of the FAR Affected: 14 CFR 61.151(a).
Description of Relief Sought: To allow the petitioner, who is 21, to apply for an airline transport pilot certificate even though an applicant is required to be at least 23 years of age.

Dispositions of Petitions

Docket No.: 11012.
Petition: Goodyear Tire and Rubber Co.
Sections of the FAR Affected: 14 CFR 91.119(b), 91.155(a), (b), and 91.157(c), (d).
Description of Relief Sought/ Disposition: To permit Goodyear to conduct airship operations (1) over congested areas at altitudes as low as 700 feet above obstacles; (2) in instrument meteorological conditions in controlled airspace under VFR (without having to obtain an ATC IFR clearance); (3) in instrument meteorological conditions below 1,200 feet above the surface in uncontrolled airspace under VFR without having to comply with IFR cruising altitude requirements of § 91.179(b); and (4) under special VFR when the visibility is less than one mile.
Denial, October 24, 1991, Exemption No. 5357.

Docket No.: 12638.
Petition: Air Transport Association of America.
Sections of the FAR Affected: 14 CFR 121.99 and 121.351(a).
Description of Relief Sought/ Disposition: To extend Exemption No. 2081, as amended, which would otherwise terminate on October 31, 1991. Exemption No. 2081, as amended, from §§ 121.99 and 121.351(a) of the Federal Aviation Regulations permits part 121 operators to dispatch aircraft over certain oceanic areas with one of two required High Frequency radios inoperative at the time of dispatch, subject to certain conditions and limitations
Grant, July 16, 1991, Exemption No. 2081m.

Docket No.: 19651.
Petition: Gates Learjet.
Sections of the FAR Affected: 14 CFR 21.197.
Description of Relief Sought/ Disposition: To extend Exemption No. 4593C from § 21.197 of the Federal Aviation Regulations. The exemption makes Gates Learjet aircraft eligible for the issuance of special flight permits for ferrying aircraft between Wichita, Kansas, and Tucson, Arizona, for the purpose of completion, subject to certain conditions and limitations.
Grant, October 23, 1991, Exemption No. 4593D.

Docket No.: 25025.
Petition: Continental Airlines, Inc.
Sections of the FAR Affected: 14 CFR 121.371(a) and 121.378.
Description of Relief Sought/ Disposition: To extend Exemption No. 4727B, which terminates on January 31, 1992, and allows Continental Airlines, Inc. (CAL) to use certain foreign original equipment manufacturers (OEM) and other OEM designated repair and overhaul facilities, that do not hold appropriate U.S. foreign repair station certificates, to perform maintenance, preventive maintenance, and alterations outside the U.S. on components and parts used on CAL's foreign manufactured aircraft.
Grant, October 29, 1991, Exemption No. 4727C.

Docket No.: 26416.
Petition: Boise Air Terminal, Gowen Field.
Sections of the FAR Affected: 14 CFR part 121, appendix I.
Description of Relief Sought/ Disposition: To permit the use of Boise City Police Department personnel to perform certain passenger and baggage inspection and screening functions at Boise Air Terminal, Gowen Field without being subject to the FAA's Anti-Drug Regulations.
Denial October 23, 1991, Exemption No. 5358.

Docket No.: 25307.
Petition: Precision Airlines.
Sections of the FAR Affected: 14 CFR 135.429(a), 135.435, and 135.443.
Description of Relief Sought/ Disposition: To extend Exemption No. 4867B which allows Precision Airlines (PREA) to use certain foreign original equipment manufacturers (OEM), and other OEM designated repair and overhaul facilities that do not hold appropriate U.S. foreign repair station certificates, to perform maintenance, preventive maintenance, and alterations outside the U.S. on components and parts used on PREA's foreign manufactured aircraft.
Grant, July 28, 1991, Exemption No. 4867C.

Docket No.: 26369.
Petition: Sierra Pacific Airlines
Sections of the FAR Affected: 14 CFR 121.356(a).
Description of Relief Sought/ Disposition: To permit Sierra Pacific Airlines to operate seven Convair 580 aircraft without those aircraft being equipped with an approved Traffic Alert and Collision Avoidance System (TCAS) II and the appropriate class of Mode S transponder.
Denial, July 25, 1991, Exemption No. 5359.

[FR Doc. 91–28015 Filed 11–20–91; 8:45 am]
BILLING CODE 4910–13–M

Air Traffic Subcommittee of the Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Air Traffic Subcommittee of the Aviation Rulemaking Advisory Committee.

DATES: The meeting will be held on December 6, 1991, at 9:30 a.m.

ADDRESSES: The meeting will be held at the General Aviation Manufacturers Association, 1400 K Street, NW., suite 801, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Aaron Boxer, Designated Federal Official, Air Traffic Rules and Procedures Service, Federal Aviation Administration, telephone: 202–267–8783.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Air Traffic Subcommittee to be held on December 6, 1991, at the General Aviation Manufacturers Association, 1400 K Street, NW., suite 801, Washington, DC. The agenda for this meeting will include:

- A report from the Mode S working Group; status of recommendations.
- A report from the Pilot Procedures at Non-Towered Airports Working Group.
- A report from the Unmanned Aerospace Vehicles Working Group.

Attendance is open to the interested public but will be limited to the space available. The public may present written statements to the subcommittee at any time by providing 30 copies to the Executive Director, or by bringing the copies to him at the meeting. Arrangements may be made by contacting the person listed under the heading "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Washington, DC, on November 15, 1991.

Aaron Boxer,

Executive Director, Air Traffic Subcommittee Aviation Rulemaking Advisory Committee.

[FR Doc. 91–28011 Filed 11–20–91; 8:45 am]

BILLING CODE 4910–13–M

Training and Qualifications Subcommittee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Training and Qualifications Subcommittee of the Aviation Rulemaking Advisory Committee.

DATES: The meeting will be held on December 5, 1991, at 9 a.m.

ADDRESSES: The meeting will be held at FAA Headquarters in the MacCraken Room, 10th Floor, 800 Independence Avenue SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mrs. Etta Schelm, Flight Standards Service (AFS–200), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–8166.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Training and Qualifications Subcommittee to be held on December 5, 1991, at the FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591. The agenda for this meeting will include progress reports from the General Aviation Working Group, Air Carrier Working Group, and Cabin Safety Working Group.

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements in advance to present oral statements at the meeting or may present written statements to the committee at any time. Arrangements may be made by contacting the person listed under the heading "**FOR FURTHER INFORMATION CONTACT.**"

Because of increased security in Federal buildings, members of the public who wish to attend are advised to arrive in sufficient time to be cleared through building security.

Issued in Washington, DC, on November 15, 1991.

David R. Harrington,

Executive Director, Training and Qualifications Subcommittee Aviation Rulemaking Advisory Committee.

[FR Doc. 91–28012 Filed 11–20–91; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Harris Co., TX

AGENCY: Federal Highway Administration (FHWA) DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Harris County, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. John E. Inabinet, Federal Highway Administration, Texas Division, 300 E. 8th Street, Austin, Texas 78701, (512) 482–5519.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Texas State Department of Highways and Public Transportation, will prepare an environmental impact statement (EIS) on a proposal to improve Interstate Highway 610 (IH 610W) in Harris County, Texas. The proposal improvement would involve the reconstruction of the existing IH 610W from the vicinity of West Bellfort Street to US 290 in the vicinity of Dacoma Avenue and IH 610N at West T.C. Jester Boulevard, a distance of approximately 9.2 miles.

Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand. Included in this proposal is the construction of dedicated express lanes between US 59S (Southwest Freeway) through the IH 10W (Katy Freeway) interchange and continuing to US 290 (Northwest Freeway). Alternatives under consideration include (1) taking no action; (2) widen freeway, with elevated express lanes between US 59S and US 290; and, (3) widen freeway with at-grade express lanes from US 59S to IH 10W, transitioning into elevated express lanes from south of IH 10W interchange to US 290/IH 610N. Incorporated into and studied with various build alternatives will be design variations of grade and alignment.

Letters describing the purposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A public meeting will be held in the City of Houston during the second half of 1991. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing. No formal sloping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

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

Issued on: November 15, 1991.

John E. Inabinet,

District Engineer, Austin, Texas.

[FR Doc. 91–28042 Filed 11–20–91; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement: I-5/196th Street Interchange, Snohomish Co., WA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in the City of Lynnwood, Snohomish County, Washington.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Washington State Department of Transportation and the City of Lynnwood, will prepare an environmental impact statement (EIS) on a proposal to improve the 196th Street S.W. interchange with Interstate 5 in the City of Lynnwood. The proposed improvement would modify the existing interchange by adding access to I-5 to and from the south and by modifying access to I-5 to and from the north.

The proposed improvements are considered necessary to: relieve congestion at the 44th Avenue W. southbound on-ramp; provide access to I-5 in all directions at 196th Street S.W.; reduce the potential for back-up on the southbound on-ramp to I-5; reduce or eliminate present back-ups to I-5 at 44th Avenue W. during the afternoon peak hours; and to improve the control of traffic flow onto I-5. Additional roadway improvements under consideration include construction of a collector-distributor road to northbound and southbound I-5 between 196th Street S.W. and the I-5/I-405 interchange at Swamp Creek, a grade separated crossing of I-5 connecting 28th Avenue West to Alderwood Mall Boulevard, a new north/south arterial connecting 200th Street SW. with Alderwood Mall Boulevard; and a frontage road connection between 44th Avenue W. and 196th Street SW. Alternatives under consideration include (1) taking no action; (2) using alternate travel modes; and (3) construction of some or all of the above noted improvements. Incorporated into and studied with the various build alternatives will be design variations of grade and alignment.

The proposed project is being coordinated with a planned high occupancy vehicle (HOV) project on I-5 within the project area.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or who are known to have an interest in this proposal. A public meeting is scheduled for December, 1991. In addition, a public hearing will be held. The draft EIS will be available for public and agency review prior to the public hearing. Public notice will be given of the time and location of the public meeting and the hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

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

Issued: November 8, 1991.

Sharon R. Price,

Area Engineer, Olympia, Washington.

[FR Doc. 91-28043 Filed 11-20-91; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

Environmental Impact on the Northeast Corridor Electrification From New Haven, CT to Boston, MA

AGENCY: Federal Railroad Administration (FRA); Department of Transportation.

ACTION: Continuation of scoping meetings.

SUMMARY: The Federal Railroad Administration gives notice that it intends to continue and extend the scoping process for the Environmental Impact Statement (EIS) on the proposed electrification of the Northeast Corridor Rail Route, from New Haven, Connecticut to Boston, Massachusetts. The FRA has scheduled two additional scoping meetings which will be held in New Haven and New London, Connecticut. The FRA will prepare the EIS so that it also satisfies the requirements of the Massachusetts Environmental Policy Act (MEPA), the Rhode Island Department of Environmental Management (DEM), and the Connecticut Environmental Policy Act (CEPA). In addition to electrification, the EIS will evaluate no-action and any other alternatives identified through the scoping process. Scoping will be accomplished through correspondence with interested persons, organizations, and federal, state and local agencies, and through public meetings.

DATES: Written comments on the scope of alternatives and impacts to be considered should be sent to the Volpe National Transportation Systems Center by November 27, 1991. Public scoping meetings were held in each state on November 4, 5 and 6. The continuation scoping meetings will be held in Connecticut on November 20, 1991, at 2 pm and 7 pm.

ADDRESSES: Written comments on the project scope should be sent to US DOT/RSPA, Volpe National Transportation Systems Center, Attn: NEC Electrification Project, Glenn Goulet, DTS-77, Kendall Square, Cambridge, MA 02142-1093.

The scoping meetings will be held at two locations:

2 pm—Hall of Records, 200 Orange Street, New Haven, CT, Phone (203) 787-8370

7 pm—Martin Center, 120 Broad Street, New London, CT, Phone (203) 447-5250

FOR FURTHER INFORMATION CONTACT: Glenn Goulet, Volpe National Transportation System Center at (617) 494-2002.

SUPPLEMENTARY INFORMATION: On October 21, 1991, the FRA published a notice of intent to prepare an environmental impact statement on the proposed electrification of the Northeast Corridor rail route, from New Haven, Connecticut to Boston, Massachusetts. As part of this effort, FRA held three scoping meetings on November 4, 5, and 6, 1991 in New London, Connecticut, Providence, Rhode Island, and Cambridge, Massachusetts. In response to expressions of interest, FRA has scheduled additional scoping meetings in New Haven and New London, Connecticut. In addition, FRA has extended the comment period on the scope of alternatives and impacts from November 18 to November 27, 1991.

Issued in Washington, DC on November 15, 1991.

James T. McQueen,

Associate Administrator for Railroad Development.

[FR Doc. 91-27985 Filed 11-20-91; 8:45 am]

BILLING CODE 4910-06-M

DEPARTMENT OF THE TREASURY

Fiscal Service

1992 Fee Schedule for the Transfer of U.S. Treasury Book-Entry Securities Held at Federal Reserve Banks

AGENCY: Department of the Treasury, Fiscal Service, Bureau of the Public Debt.

ACTION: Notice.

SUMMARY: The Department of the Treasury has established a schedule of fees that will be charged in 1992 for the transfer of book-entry Treasury securities between accounts maintained at Federal Reserve Banks and Branches for depository institutions.

EFFECTIVE DATE: January 2, 1992.

FOR FURTHER INFORMATION CONTACT:

Carl M. Locken, Jr., Assistant Commissioner (Financing), Bureau of the Public Debt, room 534, E St. Building, Washington, DC 20239–0001, telephone (202) 219–3350.

Charles E. Andreatta, Government Securities Specialist, Bureau of the Public Debt, room 534, E St. Building, Washington, DC 20239–0001, telephone (202) 219–3350.

SUPPLEMENTARY INFORMATION: On October 1, 1985, the Department of the Treasury established a fee schedule for the transfer of Treasury book-entry securities between accounts of depository institutions maintained at Federal Reserve Banks and Branches. The Treasury fee schedule was revised effective January 3, 1989, to include certain previously excluded securities transfers in the fee structure and to increase the Treasury portion of the fees to offset the anticipated increase in the cost of providing the Treasury transfer service. Effective January 2, 1990, the fee structure was further revised to eliminate the fee for the received portion (deposit) of an off-line account switch. An account switch is the transfer of a security from one book-entry sub-account to another book-entry sub-account of the same depository institution. The fees and the fee structure did not change in 1991.

After an extensive evaluation of off-line transfer costs, Treasury has decided to raise the fee from $6.40 to $7.90 for off-line transfers originated, off-line transfers received, and off-line reversal transfers received. This fee increase will more accurately reflect the costs of processing off-line transfers. Fees for on-line transfers will not change in 1992.

The fees described in this notice apply only to the transfer of Treasury book-entry securities. The Federal Reserve System assesses the fees to recover the costs associated with the processing of the funds component of Treasury book-entry transfer messages, as well as the costs of providing book-entry services for Government agencies. The Federal Reserve fees for those services are set out in a separate notice published November 6, 1991, by the Board of Governors of the Federal Reserve System.

The following is the Treasury fee schedule that will be effective January 2, 1992, for the Treasury book-entry transfer service:

1992 Fee Schedule

	Cost per transfer
On-line transfers originated	$1.65
On-line reversal transfers received	1.65
Off-line transfers originated	7.90
Off-line transfers received	7.90
Off-line reversal transfers received	7.90

Dated: November 14, 1991.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 91–28023 Filed 11–18–91; 12:28 pm]

BILLING CODE 4810–35–M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Readjustment of Vietnam and Other War Veterans; Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 that a meeting of the Advisory Committee on Readjustment of Vietnam and Other War Veterans will be held December 5 and 6, 1991. This is a regularly scheduled meeting for the purposes of reviewing VA and other relevant services for Vietnam and other war veterans, to review Committee work in progress and to formulate Committee recommendations and objectives. The meeting will be held at TechWorld in room 1208 located at 801 I Street, NW., Washington, DC. The meetings on December 5 and 6 will both begin at 8:30 a.m. and conclude at 4:30 p.m. The agenda for December 5 will consist of presentation, discussion and update of VA readjustment counseling for veterans returning from the Persian Gulf, and, separately, will address the Committee's work in progress. Major topics for the latter will include final report on revision of the Committee charter to extend the scope to all war veterans, coordination of compensation and treatment for war-related post-traumatic stress disorder (PTSD) and system-wide coordination of PTSD services. The first day's agenda will also cover a review and finalization of recommendations from the Committee's February, 1991, field visit to VA facilities in San Francisco, California.

The agenda for December 6 will feature a briefing from the Committee Vice Chairman, Mr. John F. Sommer, Jr., regarding his recent trip to Vietnam, and a review of the psychological readjustment difficulties of Persian Gulf veterans having physical disabilities from the war-zone. During the second day the Committee will also conduct a planning meeting to identify topics and objectives for the coming year.

Both meetings will be open to the public up to the seating capacity of the room. Due to limited seating capacity of the room, those who plan to attend or who have questions concerning the meeting should contact Arthur S. Blank, Jr., M.D. Director, Readjustment Counseling Service, Department of Veterans Affairs (phone number: 202–535–7554).

Dated: November 12, 1991.

By Direction of the Secretary.

Diane H. Landis,

Committee Management Officer.

[FR Doc. 91–27951 Filed 11–20–91; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 56, No. 225
Thursday, November 21, 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 given of the Board's meeting described below. The Board will also conduct a public hearing pursuant to 42 U.S.C. 2286b and invites any interested persons or groups to present any comments, technical information, or data concerning the Department of Energy's Operational Readiness Review and other matters related to the proposed re-start of the K-Reactor, Savannah River Site, South Carolina.

TIME AND DATE:
1:30 p.m. December 9, 1991—Department of Energy presentations;
6:30 p.m. December 9, 1991—Opportunity for interested persons to present oral comments concerning the matters to be considered.

PLACE: The Conference Center (Municipal Auditorium), 214 Park Avenue, S.W., Aiken, South Carolina. The entrance to the facility is located at 215 The Alley.

STATUS: Open.

MATTERS TO BE CONSIDERED: The open public meeting and hearing will address the Department of Energy's Operational Readiness Review and other matters related to the proposed re-start of the K-Reactor, Savannah River Site, South Carolina. The public hearing portion is independently authorized by 42 U.S.C. 2286b.

FOR MORE INFORMATION CONTACT: Kenneth M. Pusateri, General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004, (202) 208–6400 (FTS 268–6400). This is not a toll free number.

SUPPLEMENTARY INFORMATION: Requests to speak at the hearing may be submitted in writing or by telephone. We ask that commentators describe the nature and scope of the oral presentation. Those who contact the Board prior to close of business on December 6, 1991, will be scheduled for time slots, beginning at approximately 6:30 p.m. The Board will post a schedule for those speakers who have contacted the Board before the hearing. The posting will be made at the entrance to the Conference Center, at the start of the 1:30 p.m. meeting.

Anyone who wishes to comment, provide technical information or data may do so in writing, either in lieu of, or in addition to making an oral presentation. The Board members may question presenters to the extent deemed appropriate. The Board will hold the record open until December 12, 1991, for the receipt of additional materials. A transcript of the meeting will be made available by the Board for inspection by the public at the Defense Nuclear Facilities Safety Board's Washington office and at the DOE's public reading room at the Gregg-Granite Library, 171 University Parkway, University of South Carolina, Aiken, SC, 29801.

The Board specifically reserves its right to further schedule and otherwise regulate the course of the meeting and hearing, to recess, reconvene, postpone, or adjourn the meeting, and otherwise exercise its powers under the Atomic Energy Act of 1954, as amended.

At this meeting, the Board will review with the Department of Energy, its contractors, and outside experts the DOE's Operational Readiness Review and other technical issues pertaining to the proposed re-start of the K-Reactor at Savannah River Site, South Carolina. The Department of Energy will take appropriate measures to safeguard any classified or controlled nuclear information it presents at this meeting.

Dated: November 18, 1991.

Kenneth M. Pusateri,

General Manager.

[FR Doc. 91–28112 Filed 11–19–91; 8:45 am]

BILLING CODE 6820–KD–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of November 18, 25, December 2, and 9, 1991.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of November 18

Monday, November 18

9:30 a.m.
Briefing on Status of Design Basis Reconstitution (Public Meeting)

Wednesday, November 20

2:30 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Developments in Perry/Davis-Besse Antitrust Hearing (Tentative)

2:35 p.m.
Discussion of Draft Comments to EPA on MOU (Closed—Ex. 9)

Week of November 25—Tentative

Tuesday, November 26

10:00 a.m.
Executive Branch Briefing on Indonesia (Closed—Ex. 1)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of December 2—Tentative

Friday, December 6

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of December 9—Tentative

Thursday, December 12

10:00 a.m.
Periodic Briefing on EEO Program (Public Meeting)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

1:30 p.m.
Periodic Meeting with the Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)

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 requring any Commission vote on this date.

To Verify the Status of Meetings Call (Recording)—(301) 492–0292

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492–1661.

Dated: November 18, 1991.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 91–28114 Filed 11–19–91; 2:14 pm]

BILLING CODE 7590–01–M

RESOLUTION TRUST CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that

the following subject will be withdrawn from the open meeting agenda of the Resolution Trust Corporation Board of Directors scheduled to begin at 2:00 p.m. on Tuesday, November 19, 1991 in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.:

• Quarterly Report of Actions Taken Under Delegated Authority by the Committee on Management and Disposition of Assets and the Senior Committee on Management and Disposition of Assets, April 1, 1991—June 30, 1991.

Requests for further information concerning the meeting may be directed to Mr. John M. Buckley, Jr., Executive Secretary of the Corporation, at 202–416–7282.

Dated: November 15, 1991.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 91–28098 Filed 11–19–91; 10:20 am]

BILLING CODE 6714–01–M

federal register

Thursday
November 21, 1991

Part II

Department of the Interior

Bureau of Indian Affairs

25 CFR Parts 211, 212, and 225
Leasing of Tribal Lands for Mineral Development, Leasing of Allotted Lands for Mineral Development, and Oil and Gas, Geothermal and Solid Mineral Agreements

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Parts 211, 212, 225

RIN 1076-AA82

Leasing of Tribal Lands for Mineral Development, Leasing of Allotted Lands for Mineral Development, and Oil and Gas, Geothermal and Solid Mineral Agreements

August 15, 1991.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs (BIA) of the Department of the Interior is reproposing regulations implementing the Indian Mineral Development Act of 1982 (96 Stat. 1938, 25 U.S.C. 2102–2108) (the "1982 Act"). A new part 225 would be added to govern oil and gas, geothermal, and solid mineral development agreements entered into pursuant to the 1982 Act. In addition, the proposed rulemaking would revise existing regulations in 25 CFR parts 211 and 212 which govern mineral leasing on tribal and allotted Indian lands respectively. The intent of the proposed regulations is to ensure that Indian mineral owners desiring to have their resources developed are assured that they will be developed in a manner that maximizes their best economic interests and minimizes any adverse environmental or cultural impact on Indians resulting from such development. The regulations implementing the 1982 Act are to assist Indian mineral owners to enter into agreements which allow for more responsibility in overseeing and greater flexibility in disposing of their resources.

DATES: Comments should be submitted by February 19, 1992. Comments received or postmarked after this date may not be considered in the decision process of the final rulemaking.

ADDRESSES: Comments should be sent to: Director, Office of Trust and Economic Development, Bureau of Indian Affairs, Department of the Interior, 1849 "C" Street, NW., Mailstop 4525, Main Interior Building, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Richard N. Wilson, (303) 231–5070 or Pete C. Aguilar, (303) 231–5070 or FTS 554–5070.

SUPPLEMENTARY INFORMATION: This proposed rule is republished in the exercise of the authority delegated by the Secretary of the Department of the Interior to the Assistant Secretary-Indian Affairs by 209 DM 8. The principal authors of this rule making are: Pete C. Aguilar, Branch of Energy and Minerals, Golden, Colorado; Sharlene Round Face, Billings Area Office, Billings, Montana; Kenneth Young, Albuquerque Area Office, Albuquerque, New Mexico; Edwin Winstead, Office of the Solicitor, Washington, DC.

Section 3 of the 1982 Act authorizes any Indian tribe to enter into joint ventures, leases, or other types of negotiated agreements, subject to the approval of the Secretary of the Interior and any limitation or provision contained in the tribe's constitution or charter. The 1982 Act also permits individual Indians owning beneficial or restricted interests in mineral resources to include their resources in an agreement with an Indian tribe, subject to the concurrence of the parties and a finding by the Secretary that such participation is in the best interest of the Indian mineral owner. The 1982 Act does not supersede the Act of May 11, 1938 (52 Stat. 347, 25 U.S.C. 396), which governs the leasing of tribally owned minerals, or the Act of March 3, 1909, as amended, (35 Stat. 783, 25 U.S.C. 396) which governs the leasing of allotted lands. Instead, it supplements those acts by permitting Indian mineral owners to elect whether they wish to offer their mineral resources for lease by competitive bidding, or entering into direct negotiations for a minerals agreement, or by a combination of competitive bidding and negotiations.

Pursuant to the mandate in section 8 of the 1982 Act, the Bureau of Indian Affairs (BIA) published a notice of proposed rulemaking in the **Federal Register** on July 12, 1983 (48 FR 31978) intended to implement the 1982 Act. In addition, the proposed rulemaking included a revision and reorganization of regulations governing mining and oil and gas leases adopted pursuant to Act of May 11, 1938, which governs the leasing of tribally-owned minerals, and the Act of March 3, 1909, as amended, which governs the leasing of individually-owned minerals on allotted lands. On August 24, 1987 (52 FR 31916), the BIA published final regulations which were scheduled to become effective on October 24, 1987. Then, in response to concerns expressed by the public, the regulations were amended and republished as proposed on October 21, 1987 (52 FR 39332) and the public was notified that the regulations published on August 24, 1987, would not become effective.

Public responses to these publications contained reasonable and compelling arguments for restructuring the format of the proposed regulations. Several commenters stated the regulations in the proposed format published October 21, 1987, were confusing, ambiguous and led to misinterpretation of the regulations. The proposed format combined regulations implementing the Acts of May 11, 1938, and March 3, 1909, and the 1982 Act into two separate parts—211, contracts for prospecting and mining on Indian lands (except oil and gas and geothermal) and 225, oil and gas and geothermal contracts. The most common major concern was whether provisions of the 1982 Act would serve to supplant lease and regulatory conditions contained in lease contracts entered into under the authority of the 1909 and 1938 Acts. The format created confusion about contract approval procedures used for leasing tribal versus allotted lands. In addition, the format created confusion between regulatory requirements for solid mineral versus fluid mineral contracts. The uncertainty expressed by Indian interests and industry on numerous issues convinced the Department that the regulations needed to be entirely reformatted and revised.

The proposed regulations are now organized under a system which should be more familiar to both Indian mineral owners and industry. The proposed regulations are organized in three sections: Part 211 provides the procedures for obtaining and operating standard mineral leases, for both solid and fluid minerals on tribal lands under the Act of May 11, 1938, as amended; Part 212 provides the procedures for obtaining and operating standard mineral leases, for both solid and fluid minerals on allotted lands under the Act of March 3, 1909, as amended; and Part 225 provides a new and separate section governing agreements for development of Indian minerals under the Indian Minerals Development Act of 1982.

Along with the reformatting, many changes have been made to individual sections. These changes generally reflect the Department's efforts to be responsive to the comments received in 1987, to reflect the additional experience that has been gained on several of these issues over the last four years, and, when appropriate, to make these regulations consistent with the regulations governing mineral leasing and development on federal lands. In reviewing all of the issues raised in the 1987 comments and in redrafting the regulations, it has been our goal to ensure that the Department is able to fulfill its trust responsibility by providing adequate provisions to ensure the protection of the trust resources, while at the same time benefiting the

Indian mineral owners by attempting to remove unnecessary regulatory barriers and complications which could make their minerals less attractive to industry and thus frustrate development. In addition, consistent with the United States' policy on self-determination, the Department has attempted to provide the Tribes as much freedom as possible to make their own determination on issues affecting the development of their minerals.

In order to ensure that Indian mineral owners and Indian mineral lessees have a full opportunity review and comment, the Department determined that these regulations should be published as proposed rather than final and that the public be given 60 days to review the regulations and provide written comments. In addition, the Department intends to schedule at least two public meetings in September, during which the Department will receive comments and suggestions. Notice of the time and location of these meetings will be published within the next few weeks.

Preambles often provide a detailed review of comments received and changes made pursuant to comment. However, because of the extensive reformatting and restructuring from the prior fluid/solid mineral format to the current Tribal leasing/Allotted leasing/IMDA Agreement format, a detailed review was determined to be more confusing than helpful. Because the regulations are being reproposed rather than published as final, with adequate time for complete review by the public, the Department determined to provide a short preamble listing only significant changes. Therefore, the following comments concern some, but not all the changes made to the regulations since the October 21, 1987 publication.

General Analysis

Because of the amount of time lapsed since the last publication of the proposed regulations and because the reformatting makes a side-by-side comparison extremely difficult and confusing, this current proposal is being compared to the current regulations found in 25 CFR parts 211 and 212. (Section references in the headings are to the proposed regulations.)

Section 211.1. Purpose and Scope

This is a new section which, as its title states, would provide some general guidance on the purpose and scope of the regulations. Several issues which previously were included as separate sections (i.e. 211.28 and 211.29) are now addressed in this one section.

Section 211.3. Definitions

The definitions section of the regulations would be expanded significantly to eliminate ambiguities and questions concerning the meaning of frequently used terms. The most important new definitions are:

(i) *In the best interest of the Indian mineral owner.* This term would clarify the relevant factors which may be included in the Secretary's review of leases, permits, communitization agreements, etc., and settles the issue of whether the Secretary is limited to technical functions or considerations in such approvals. This definition is consistent with the United States' trust responsibility as defined by statute;

(p) *Mining.* This definition would exclude small mining operations which extract less than 5,000 cubic yards of solid minerals per year. Although this definition does not remove the requirement that an approved lease be obtained prior to removal of any minerals, it does remove the requirement of filing mining plans, thus streamlining operations and making Indian solid minerals more competitive.

Sections 211.4, 5 and 6. Authorities of the BLM, OSMRE and MMS

These three sections would be new. Because the responsibilities for handling leases on tribal and allotted lands are shared by several agencies within this Department, these sections were added to provide references for lessors and lessees and to provide additional clarity as to what other regulations apply to Indian leases.

Section 211.7. Environmental Studies

This new section would provide guidance concerning the applicable environmental regulations and standards. It also would provide additional guidance to lessors and lessees as to what actions need to be taken prior to mineral development.

Section 211.9. Existing Permits or Leases for Minerals Issued Pursuant to 43 CFR and Accuired for Indian Tribes

This new section would clarify the procedures to be used for existing leases on lands which previously had been Federal public lands, but which are now Indian lands.

Section 211.20. Leasing Procedures

This section would amend current § 211.3 and more clearly describes for both tribes and lessees how the leasing process may be initiated.

Section 211.23. Corporate Qualifications and Requests for Information

The provisions of current § 211.5 have been found to be needlessly burdensome in the majority of cases. The new section would reduce the general information requirements while at the same time retaining the authority to require additional information should it be deemed necessary.

Section 211.24. Bonds

This revision to § 211.6 would strengthen the bonding requirements, provide additional guidance concerning personal bonds, and raise the amount of the bond required.

Section 211.27. Duration of Leases

This section would revise current § 211.10 (Term of Leases) by addressing the issue of what actions are required to propel a lease into its secondary or extended term. This amendment should protect the lessor's interests while providing lessees with additional guidance and certainty.

Section 211.28. Unitization and Communitization Agreement, and Well Spacing for Oil, Gas, and Geothermal Resources

This section would significantly expand upon the current paragraph (§ 211.21(b)) dealing with cooperative agreements. Several issues which have caused confusion and uncertainty concerning communitization of Indian leases are addressed. Because cooperative agreements are, by their very nature, almost always in the best interests of the mineral owner, the regulation is drafted to assume that no additional consent to a communitization agreement is required unless the lease specifically requires such consent. However, the Secretary must determine on a case-by-case basis whether approval of a cooperative agreement is in the Indian mineral owners best interest. Lessees would be required to submit proposed communitization agreements to the Department at least 90 days prior to the expiration date of the first Indian lease to expire in the area to be subject to the agreement.

Section 211.40. Manner of Payments

This new section would clarify that all payments, except bonus payments and rentals received prior to production, are to be paid to the MMS under its regulations.

Section 211.41. Rentals and Production Royalty on Oil and Gas Leases

This section would be simplified by referencing MMS regulations on value

issues. The section also raises the minimum royalty from 12½ to 16⅔. However, if a lower royalty rate would be in the best interests of the Indian mineral owner, the BIA has authority to approve leases with lower royalty rates.

Section 211.43. Royalty Rates for Minerals Other Than Oil and Gas

This new section would provide, for the first time, minimum royalty rates for minerals other than oil and gas. This new section should be helpful in providing additional guidance to potential lessees while providing reasonable royalty rates for lessors.

Section 211.44. Suspension of Operations

This provision would clarify the Department's position on suspension of operations. The Department believes that suspension of operations and production for remedial work on a well or mine to enhance or sustain gas production, to prevent damage to the mineral resource, or to prevent environmental damage is not only appropriate, but is also required as part of the lessee's implied covenants in the mineral lease. Failure to allow such suspensions without risk of lease termination would encourage irresponsible and possibly destructive behavior by lessees which are not ultimately in the best interests of the Indian owner. However, the lessee must use reasonable diligence during the period of suspension and must comply with the BLM procedures in 43 CFR.

Applications for suspensions for economic reasons would not be approved. However, the lessor and lessee may agree in writing to such a suspension which, if approved by the Secretary, would amend the lease and would not cause the termination of the lease.

Section 211.47. Diligence, Drainage and Prevention of Waste

The section was simply redrafted with minor changes to the provisions of current § 211.19 for purposes of clarity.

Section 211.51. Surrender of Leases

This section would provide more specific guidance for lessees and would provide additional protection for lessors on procedures for surrendering a lease than is provided in current § 211.27(b).

Section 211.52. Fees

This amendment to § 211.25 would increase the fees for filing transactional documents from $10.00 to $75.00.

Section 211.53. Assignments, Overriding Royalties, and Operating Agreements

This section would amend and simplify the provisions of current § 211.26. The most significant change is the proviso in § 211.53(b) which requires that no interest in the minerals can be assigned in an overriding royalty or operating agreement. If such overriding royalty or operating agreements assign an interest in the mineral resources then, under the Indian mineral leasing statutes, the approval of the Secretary is required.

Section 211.54. Lease or Permit Cancellation, Notice of Noncompliance

The cancellation section would be expanded to clarify the actions which may be taken by the Assistant Secretary in the event the lessee breaches or fails to fulfill its obligations under the lease or regulations. The amendments also would provide additional due process for lessees and describes the procedures to be used for cancellation in greater detail.

Section. 211.55. Civil Penalties

The proposed section raises the penalty which may be imposed from $500 to $1,000 and clarifies the procedures for issuing a penalty.

Section 211.56. Geological and Geophysical Permits

The proposed revisions to this section provide greater guidance on issues raised by permit holders and provide that the data collected under the permit will be given to the Secretary and to the tribe. Section 212.56 provides a mechanism whereby a permit to explore can be given on allotted lands with less than 100 percent owner consent. The Department believed this provision to be appropriate since a permit under this section does not allow development of the minerals, but only the opportunity to learn more about the location and value of mineral resources.

All of the changes under part 212 concerning leasing of allotted lands are substantially similar to the revisions to part 211. Therefore, no additional analysis of part 212 is provided.

Part 225—Oil and Gas, Geothermal, and Solid Mineral Agreements

Part 225 concerning Indian Mineral Development Act agreements is an entirely new part. However, this proposal is substantially similar to previously published versions of the proposed regulations.

Section 225.1 Purpose and Scope

The scope and purpose of this section would be to implement the 1982 Act which provides Indian Tribes greater flexibility for the development and sale of their mineral resources. The objective of the 1982 Act is to permit Indian mineral owners to enter into agreements which allow for more responsibility in overseeing and greater flexibility in disposing of their mineral resources. Because of the wide range of agreements which tribes and industry may negotiate, the Department has attempted to draft regulations which (1) fully implement the statutory procedures prescribed for obtaining an agreement for development of Indian minerals, (2) provide sufficient guidance to both tribes and lessees as to what information will be required for the Secretary's review of agreements, and what type of criteria will be applied to the review, and (3) how the agreement will be monitored by the Department to ensure that the tribes' resources are protected. Many of the provisions in the regulations apply, unless the parties to the agreement specifically agree otherwise. The amendments would allow the parties to negotiate these issues and spell out how they intend to address these issues in the agreement. Very few of the specific regulatory provisions are mandatory. However, most of the sections address issues which need to be addressed in an agreement in some fashion. Although the Department would not intend to dictate the terms of an agreement, it does believe that agreements which fail to address important issues and which may expose the tribes to an unreasonable amount of risk may need to be amended prior to approval.

The policy of the Department of the Interior is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed rule to the locations identified in the **ADDRESSES** section of this document.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291, Federal Regulation, 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; and 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 proposed rulemaking will have equal impact on anyone desiring to engage in prospecting for or developing Indian-owned minerals, including oil and gas and geothermal resources. The changes made by the proposed rulemaking reduce the regulatory burden imposed on such persons in several instances. The proposed rulemaking does increase the filing fee which must accompany each permit, lease, sublease or other contract, or an assignment or surrender thereof from $10 to $75 to conform with present filing fees on Federal lands. This increase is necessary to partially compensate the United States for its costs of processing those documents, but is not an amount that should discourage or prevent any small business from contracting to engage in mineral development on Indian lands. Additionally, statewide bond coverage would be increased to $75,000 in order to provide uniformity throughout the Bureau. The $75,000 statewide bond coverage is already required by the Bureau on three major oil and gas producing reservations. The increase should not discourage or prevent any small business from contracting to engage in mineral development on Indian lands.

The changes made by the proposed rulemaking are for the purpose of streamlining and updating existing leasing procedures, and clarifying the meaning and intent of those procedures. These changes constitute an administrative action and do not impact on the physical environment. The approval of contracts would require compliance with the provisions of the National Environmental Policy Act of 1969, including public participation in compliance with the regulations of the Council on Environmental Quality. In analyzing the alternatives to the changes in the initially proposed rulemaking which were made, the Bureau considered the changes to be of such minor variation and degree that the impacts were deemed equal to or less than the changes made by initially proposed rulemaking. The Department of the Interior has determined therefore, that there will be no significant impact to the human environment.

The Office of Management and Budget (OMB) has informed the Department of the Interior that the information collections contained in 25 CFR parts 211, 212, and part 225 need not be reviewed by them under the Paperwork Reduction Act, Public Law 95–511 (44 U.S.C. 3501 *et seq.*

List of Subjects in 25 CFR Parts 211, 212, 225

Geothermal energy, Indians-lands, Mineral resources, Mines, Oil and gas exploration, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, parts 211, 212, and 225 of title 25, Chapter I of the Code of Federal Regulations are proposed to be revised as set forth below.

PART 211—LEASING OF TRIBAL LANDS FOR MINERAL DEVELOPMENT

Subpart A—General

Sec.

Subpart B—How to Acquire Leases

Subpart C—Rents, Royalties, Cancellations and Appeals.

Authority: Sec. 4, Act of May 11, 1938, (52 Stat. 347); Act of August 1, 1956 (70 Stat. 774); 25 U.S.C. 396a–g.

Subpart A—General

§ 211.1 Purpose and scope.

(a) The regulations in this part govern leases for the development of Indian tribal oil and gas, geothermal, and solid mineral resources. These regulations are intended to ensure that Indian mineral owners desiring to have their resources developed are assured that they will be developed in a manner that maximizes their best economic interests and minimizes any adverse environmental or cultural impact on Indians resulting from such development. The regulations of the Bureau of Land Management, the Office of Surface Mining Reclamation and Enforcement, and the Minerals Management Service that are referenced in §§ 211.4, 211.5, and 211.6 are supplemental to these regulations, and apply to parties holding leases or permits for development of Indian mineral resources unless specifically stated otherwise in this part or in such other regulations.

(b) The regulations in this part do not apply to leasing and development governed by regulations in 25 CFR parts 213 (Five Civilized Tribes of Oklahoma), 226 (Osage), and 227 (Wind River Reservation).

(c) Nothing in these regulations is intended to prevent Indian tribes from exercising their lawful governmental authority to regulate the conduct of persons, businesses, operations or mining within their territorial jurisdiction.

(d) The regulations in this part are subject to amendment at any time by the Secretary of the Interior. No regulations which become effective after the date of approval of any lease shall operate to affect the duration of the lease, rate of royalty, rental, or acreage unless agreed to by all parties to the lease.

§ 211.2 Information collection.

The Office of Management and Budget has informed the Department of the Interior that the Information Collection Requirements contained in this part 211 need not be reviewed by them under the Paperwork Reduction Act (44 U.S.C. 3501; *et seq*).

§ 211.3 Definitions.

As used in this part, the following terms have the specified meaning except where otherwise indicated—

Approving Official means the Bureau of Indians Affairs official with delegated authority to approve a lease.

Area Director means the Bureau of Indian Affairs official in charge of an Area Office.

Assistant Secretary means the Assistant Secretary of Indian Affairs, Department of the Interior, or his/her designee.

Authorized Officer means any employee of the Bureau of Land Management authorized by law or by lawful delegation of authority to perform the duties described herein and in 43 CFR parts 3160, 3260, 3480 and 3590.

Bureau means the Bureau of Indian Affairs (BIA).

Gas means any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at ordinary temperatures and pressure conditions.

Geological and geophysical permit means a written authorization to conduct on-site surveys to locate potential deposits of oil and gas, geothermal or solid mineral resources on the lands.

Geothermal resources means:

(1) All products of geothermal processes, embracing indigenous steam, hot water and hot brines;

(2) Steam and other gases, hot water, and hot brines, resulting from water, gas or other fluids artificially introduced into geothermal formations;

(3) Heat or other associated energy found in geothermal formations; and

(4) Any by-product derived therefrom.

In the best interest of the Indian mineral owner refers to the standards to be applied by the Bureau in considering whether to take an administrative action affecting the interests of an Indian mineral owner. In considering whether it is "in the best interest of the Indian mineral owner" to take a certain action (such as approval of a lease, permit, unitization or communitization agreement), the Bureau may consider any relevant factor, including, but not limited to, economic considerations such as date of lease expiration, probable financial effect on the Indian owner, leasability of land concerned, need for change in the terms of the existing lease, marketability and potential environmental, social, and cultural effects.

Indian lands means any lands owned by any individual Indian or Alaska Native, Indian tribe, band, nation, pueblo community, rancheria, colony, or other group which owns lands or interest in the minerals, the title to which is held in trust by the United States or is subject to restriction against alienation imposed by the United States.

Indian mineral owner means an Indian tribe, band, nation, pueblo community, rancheria, colony, or other group which owns mineral interests in oil and gas, geothermal or solid mineral resources, the title to which is held in trust by the United States, or is subject to a restriction against alienation imposed by the United States.

Lease means any contract, profit-sharing arrangement, joint venture, or other agreement approved by the United States under the Act of May 11, 1938 (52 Stat. 347) or the Act of August 1, 1956 (70 Stat. 774) as amended, that authorizes exploration for, extraction of, or removal of any minerals.

Lessee means a person, proprietorship, partnership, corporation, or other business entity which has made application for, or is negotiating with, or entered into a lease with an Indian mineral owner, or who has been assigned an obligation to make royalty or other payments required by the lease.

Lessor means an Indian mineral owner.

Minerals includes both metalliferous and non-metalliferous minerals, all hydrocarbons including oil, gas, and coal, geothermal resources, and includes but is not limited to, sand, gravel, pumice, cinders, granite, building stone, limestone, clay, silt, or any energy or other non-energy mineral.

Minerals Management Service Official means any employee of the Minerals Management Service (MMS) authorized by law or by lawful delegation of authority to perform the duties described in 30 CFR chapter II, subchapter A.

Mining means the science, technique, and business of mineral development including, but not limited to, opencast, underground work, and in-situ leaching, directed to severance and treatment of minerals, provided when sand, gravel, pumice, cinders, granite, building stone, limestone, clay or silt is the subject mineral, an enterprise is considered "mining" only if the extraction of such mineral exceeds 5,000 cubic yards in any given year.

Oil means all nongaseous hydrocarbon substances other than those substances leasable as coal, oil shale or gilsonite (including all veintype solid hydrocarbons). Oil includes liquefiable hydrocarbon substances such as drip gasoline and other natural condensates recovered or recoverable in a liquid state from produced gas without resorting to a manufacturing process.

Secretary means the Secretary of the Interior or an authorized representative.

Solid Minerals means all minerals excluding oil and gas or geothermal resources.

Superintendent means the Bureau Agency Superintendent or a designated representative authorized by law or lawful delegation of authority having jurisdiction over the oil and gas, geothermal or solid mineral resources subject to leasing under this part.

Tar sand means any consolidated or unconsolidated rock (other than coal, oil shale or gilsonite) that either: (1) Contains a hydrocarbonaceous material with a gas-free viscosity, at original reservoir temperature greater than 10,000 centipoise, or (2) contains a hydrocarbonaceous material and produced by mining or quarrying.

§ 211.4 Authority and responsibility of the Bureau of Land Management (BLM).

The functions of the Bureau of Land Management are found in 43 CFR part 3160—Onshore Oil and Gas Operations, 43 CFR part 3260—Geothermal Resources Operations, 43 CFR part 3480—Coal Exploration and Mining Operations, and 43 CFR part 3590—Solid Minerals (other than coal) Exploration and Mining Operations, and currently include, but are not limited to, resource evaluation, approval of drilling permits, mining and reclamation, production plans, mineral appraisals, inspection and enforcement, and production verification. These authorities, as amended, apply to leases affecting Indian lands.

§ 211.5 Authority and responsibility of the Office of Surface Mining Reclamation and Enforcement (OSMRE).

The OSMRE is the regulatory authority for surface coal mining and reclamation operations on Indian lands pursuant to the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq*). These responsibilities are found in 30 CFR part 750 and 25 CFR part 216. These authorities, as amended, apply to leases affecting Indian lands.

§ 211.6 Authority and responsibility of the Minerals Management Service (MMS).

The functions of the MMS for reporting, accounting, and auditing are found in 30 CFR chapter II. These authorities, as amended, apply to leases affecting Indian lands.

§ 211.7 Environmental studies.

(a) The Secretary shall ensure that all environmental studies are prepared as required by the National Environmental Policy Act of 1969 (NEPA) and the regulations promulgated by the Council

for Environmental Quality (CEQ) 40 CFR parts 1500–1508.

(b) In order to make a determination of the effect of a contract or lease on prehistoric, historic, architectural, archeological, cultural, and scientific resources, in compliance with the National Historic Preservation Act, 16 U.S.C. 470 *et seq.* Executive Order 11593 (May 1971), and regulations promulgated thereunder, 36 CFR parts 60, 63, and 800, and the Archeological and Historic Preservation Act, 16 U.S.C. 469a–1 *et seq.*, and the American Indian Religious Freedom Act of August 8, 1978 (Pub. L. 95–341), the Secretary shall, prior to approval of a lease, ensure that surveys are performed to determine the effect of the exploration and mining activities on properties which are listed in the National Register of Historic Places, 16 U.S.C. 470a, or are eligible for listing in the National Register. If the surveys indicate that properties listed in or eligible for listing in the National Register will be affected, the Secretary shall seek the comments of the Advisory Council on Historic Preservation pursuant to 36 CFR part 800. If the mineral development will have an adverse effect on such properties, the Secretary shall ensure either that the properties will be avoided, the effects mitigated, or the appropriate excavations or other research is conducted and that complete data describing the historic property is preserved.

§ 211.8 Government employees cannot acquire leases.

Government employees are prevented from acquiring leases or interests in leases by the provisions of 25 CFR part 140 and 43 CFR part 20 pertaining to conflicts of interest and ownership of an interest in trust land.

§ 211.9 Existing permits or leases for minerals issued pursuant to 43 CFR and acquired for Indian tribes.

(a) Title to the minerals underlying certain Federal lands, which were previously subject to general leasing and mining laws, is now held in trust by the United States for Indian tribes. Existing mineral prospecting permits, exploration and mining leases on these lands issued pursuant to 43 CFR (and its predecessor regulations) and all actions on the permits and leases shall be administered by the Secretary in accordance with the regulations set forth in 30 CFR and 43 CFR, as applicable, provided that all payment or reports required by a non-producing lease or permit, issued pursuant to 43 CFR, shall be made to the Superintendent having administrative jurisdiction over the land involved, instead of the officer of the Bureau of Land Management designated in 43 CFR unless specifically stated otherwise in the statutes authorizing the United States to hold the land in trust for an Indian tribe. Producing lease payments and reports will be submitted to the Minerals Management Service in accordance with 30 CFR chapter II.

(b) If any administrative action is taken by the Assistant Secretary regarding an existing lease or permit under this section, any appeal of such action shall be taken pursuant to 25 CFR part 2.

Subpart B—How To Acquire Leases

§ 211.20 Leasing procedures.

(a) Application for leases shall be made to the Superintendent having jurisdiction over the lands.

(b) Indian mineral owners may request that the Secretary prepare and advertise or negotiate mineral leases on their behalf. If requested by a potential lessee interested in acquiring rights to Indian-owned minerals, the Secretary shall promptly notify the Indian mineral owner, and advise the owner in writing of the alternatives available, including the right to decline to lease. If the Indian mineral owner decides to have the leases advertised, the Secretary may undertake the responsibility to advertise and lease in accordance with the following procedures:

(1) Leases shall be advertised to receive optimum competition for bonus consideration, under sealed bid, oral auction, or a combination of both. Notice of such advertisement shall be published in at least one local newspaper and in one trade publication at least 30 days in advance of sale. If applicable, such notice must identify the reservation within which the tracts to be leased are found. No specific description of the tracts to be leased need be published. Specific description of such tracts shall be available at the office of the Superintendent upon request. The complete text of the advertisement, including a specific description, shall be mailed to each person listed on the appropriate agency mailing list. Individuals and companies interested in receiving advertisements of lease sales should send their mailing information to the Bureau for future reference.

(2) The advertisement shall offer the tracts to the responsible bidder offering the highest bonus. The rental and royalty rates shall be stated in the advertisement and shall not be subject to negotiation. The advertisement shall provide that the Secretary reserves the right to reject any or all bids, and that acceptance of the lease bid by the Indian mineral owner is required.

(3) Each sealed bid must be accompanied by a cashier's check, certified check or postal money order, or any combination thereof, payable to the payee designated in the advertisement, in an amount not less than 25 percent of the bonus bid, which shall be returned if that bid is not accepted.

(4) A successful oral auction bidder will be allowed five (5) working days to remit the required 25 percent deposit of the bonus bid.

(5) A successful bidder shall, within 30 days after notification of the bid award, remit to the Secretary the balance of the bonus, the first year's rental, a $75 filing fee, and its prorated share of the advertising costs as determined by the Bureau, and shall file with the Secretary all required bonds. The successful bidder shall also file the lease in completed form at that time. However, for good reasons, the Secretary may grant extensions of time in 30 day increments for filing of the lease and all required bonds, provided that additional extension requests are submitted and approved prior to the expiration of the original 30 days or the previously granted extension. Failure on the part of the bidder to comply with the foregoing may result in forfeiture of the required payment of 25 percent of any bonus bid for the use and benefit of the Indian mineral owner.

(6) If no satisfactory bid is received, or if the accepted bidder fails to complete all requirements necessary for the approval of the lease, or if the Secretary determines that it is not in the best interest of the Indian mineral owner to accept the highest bid, the Secretary may re-advertise the lease for sale, or, subject to the consent of the Indian mineral owner, the lease may be let through private negotiations.

(c) The Secretary shall advise the Indian mineral owner of the results of the bidding, and shall not approve the lease until the consent of the Indian mineral owner has been obtained.

(d) The Indian mineral owner may also submit negotiated leases to the Secretary for review and approval.

§ 211.21 [Reserved]

§ 211.22 Leases for subsurface storage of oil or gas.

(a) The Secretary, with the consent of the Indian mineral owners, may approve storage leases, or modifications, amendments, or extensions of existing leases, on trust or restricted lands to provide for the subsurface storage of oil or gas, irrespective of the lands from

which production is initially obtained. The storage lease, or modification, amendment, or extension to an existing lease, shall provide for the payment of such storage fee or rental on such oil or gas as may be determined adequate in each case, or, in lieu thereof, for a royalty other than that prescribed in the oil and gas lease when such stored oil and gas is produced in conjunction with oil or gas not previously produced.

(b) The Secretary, with consent of the Indian mineral owners, may approve a provision in an oil and gas lease under which storage of oil and gas is authorized for continuance of the lease at least for the period of such storage use and so long thereafter as oil or gas not previously produced is produced in paying quantities.

(c) Applications for subsurface storage of oil or gas shall be filed in triplicate with the Authorized Officer and shall disclose the ownership of the lands involved, the parties in interest, the storage fee, rental, or royalty offered to be paid for such storage, and all essential information showing the necessity for such project. Enough copies of the final agreement signed by the Indian mineral owners and other parties in interest shall be submitted for the approval of the Secretary to permit retention of five copies by the Department after approval.

§ 211.23 Corporate qualifications and requests for information.

(a) The signing in a representative capacity and delivery of bids, geological and geophysical permits, mineral leases, or assignments, bonds, or other instruments required by these regulations constitutes certification that the individual signing (except a surety agent) is authorized to act in such capacity. An agent for a surety shall furnish a power of attorney.

(b) A lessee proposing to acquire an interest in a permit or an interest in Indian owned minerals shall have on file with the Superintendent a statement showing:

(1) The State(s) in which the corporation is incorporated, and that the corporation is authorized to hold such interests in the State where the land described in the instrument is situated.

(2) A notarized statement that it has power to conduct all business and operations as described in the lease instrument.

(c) The Secretary may, either before or after the approval of a permit, mineral lease, assignment, or bond, call for any reasonable additional information necessary to carry out the regulations in this part, or other applicable laws and regulations.

§ 211.24 Bonds.

(a) The lessee or assignee shall furnish with each lease or assignment a surety bond or a personal bond, conditioned upon compliance with all of the terms and conditions of the entire leasehold(s) covered by the bond.

(b) Surety bonds shall be issued by a qualified company approved by the Department of the Treasury (see Department of the Treasury Circular No. 570).

(c) Personal bonds shall be accompanied by an irrevocable letter of credit issued by a federally insured financial institution for a specific term, identifying the Secretary as sole payee with full authority to demand immediate payment in the case of default in the performance of the terms and conditions of a lease. Letters of credit shall be subject to the following conditions:

(1) The letter of credit shall be issued only by a financial institution organized or authorized to do business in the United States;

(2) The letter of credit shall be irrevocable during its term. A letter of credit used as security for any lease upon which drilling has taken place and final approval of abandonment has not been given, or as security for a statewide or nationwide lease bond, shall be forfeited and shall be collected by the Assistant Secretary if not replaced by other suitable bond or letter of credit at least 30 days before its expiration date;

(3) The letter of credit shall be payable to the Bureau of Indian Affairs upon demand, in part or in full, upon receipt from the Assistant Secretary of a notice of attachment stating the basis therefor, e.g., default in compliance with the lease terms and conditions or failure to file a replacement in accordance with paragraph (c)(1)(ii) of this section;

(4) The initial expiration date of the letter of credit shall be at least 1 year following the date it is filed in the proper BIA office; and

(5) The letter of credit shall contain a provision for automatic renewal for periods of not less than 1 year in the absence of notice to the proper BIA office at least 90 days prior to the originally stated or any extended expiration date.

(d) Lease bonds shall be in an amount satisfactory to the Secretary and, at a minimum, shall be for an amount sufficient to ensure compliance with all the requirements of the Authorized Officer, including complete and timely plugging of the well(s), reclamation of the lease area(s), and restoration of any lands or surface waters adversely affected by lease operations. The bonds also shall be available, in the Secretary's discretion, to satisfy any unpaid royalty debt of the lessee or assignee to the lessor.

(e) A lessee may file a $75,000 bond for all oil and gas or geothermal resource prospecting permits or leases in any one State, which may also include leases on that part of an Indian reservation extending into any contiguous State.

(f) A lessee may furnish a $150,000 bond for full nationwide coverage to cover all oil and gas or geothermal resource leases or prospecting permits without geographic or acreage limitation to which the lessee or permittee is or may become a party. Nationwide bonds shall be filed for approval with the Assistant Secretary.

(g) The required amount of bonds may be increased in any particular case at the discretion of the Secretary.

(h) No lease bond can be cancelled without the written approval of the Bureau.

(i) A separate bond may be required for an administrative appeal of an order issued by the MMS pursuant to 30 CFR chapter II.

§ 211.25 Acreage limitation.

Leases are to be contained within one section and are not to exceed 640 acres.

§ 211.26 [Reserved]

§ 211.27 Duration of leases.

(a) All leases shall be for any term not to exceed a primary term of ten (10) years and shall continue as long thereafter as minerals are produced in paying quantities. Absent specific lease terms to the contrary, all provisions in leases governing their duration shall be measured from the date of approval by the Secretary.

(b) An oil and gas or geothermal resource lease which stipulates that it shall continue in full force and effect beyond the expiration of the primary term if drilling operations have commenced during the primary term ("commencement clause") shall be valid and shall hold the lease beyond the primary term if the lessee has commenced actual drilling by midnight of the last day of the primary term of the lease with a rig designed to reach the total proposed depth, and drilling is continued with reasonable diligence until the well is completed to production or abandoned. Drilling which meets the requirements of this section and occurs within a unit or communitization agreement to which the lease is communitized shall be considered as if it occurs on the leasehold itself. If there is a conflict between the commencement

clause and the habendum clause of a lease, the commencement clause will control.

(c) A solid minerals lease which stipulates that it shall continue in full force and effect beyond the expiration of the primary term if mining operations have commenced shall be valid and hold the lease beyond the primary term if the lessee has commenced actual removal of mineral materials intended for sale and upon which royalties will be paid.

§ 211.28 Unitization and communitization agreement, and well spacing for oil, gas, and geothermal resources.

(a) For the purpose of promoting conservation and efficient utilization of natural resources, the Secretary may approve a cooperative unit, drilling or other development plan on any leased area upon a determination that approval is advisable and in the best interest of the Indian owner. For the purposes of this section, a cooperative or other plan means an agreement for the development or operation of a specifically designated area as a single unit without regard to separate ownership of the land included in the agreement. Such cooperative agreements include, but are not limited to, unit agreements, communitization agreements and other types of agreements which allocate costs and benefits.

(b) The consent of the Indian mineral owner to such unit or communitization agreement shall not be required unless such consent is specifically required in the lease.

(c) Requests for approval of cooperative agreements which comply with the requirements of all applicable rules and regulations shall be filed with the Superintendent and/or Area Director. An affidavit from the lessee stating that a notice was mailed to each mineral owner of record for whom the Superintendent and/or Area Director has an address will satisfy this notice requirement.

(d) All Indian mineral owners of any right, title or interest in the oil and gas or geothermal resources to be included in a cooperative agreement must be notified by the lessee at the time the agreement is submitted to the Superintendent and/or Area Director.

(e) A request for approval of a proposed cooperative agreement, and documents incident to such agreement, must be filed with the Superintendent at least ninety (90) days prior to the expiration date of the first Indian oil and gas or geothermal lease to expire in the area proposed to be covered by a cooperative agreement.

(f) Unless otherwise provided in the cooperative agreement, approval of the agreement commits each lease in the drilling unit covered by the agreement on the date approved by the Secretary or the date that first production occurs within the unit, whichever is earlier, as long as the agreement is approved before the lease expiration date.

(g) Any lease committed in part to any such cooperative agreement shall be segregated into a separate lease or leases as to the lands committed and lands not committed to the agreement. Segregation shall be effective on the date the agreement is effective.

(h) Wells shall be drilled in conformity with a well spacing program approved by the Secretary.

Subpart C—Rents, Royalties, Cancellations and Appeals

§ 211.40 Manner of payments.

Unless otherwise specifically provided for in a lease, all payments shall be made to the Secretary or such other party as may be designated, and shall be made at such time as provided in 30 CFR chapter II. All bonus payments, and, prior to production, rental payments, shall be made to the Bureau. Once production has been established rental and royalty payments shall be made to the MMS.

§ 211.41 Rentals and production royalty on oil and gas leases.

(a) A lessee shall pay, in advance, beginning with the effective date of the lease, an annual minimum rental of $1.25 per acre or such other greater amount as prescribed in the lease. This rental shall not be credited against production royalty nor shall the rental be prorated or refunded because of surrender or cancellation.

(b) The Secretary shall not approve leases with a royalty rate less than 16⅔ percent of the amount or value of production removed or sold from the lease unless a lower royalty rate is determined to be in the best interest of the Indian mineral owner. Such approval may only be granted by the Area Director if the Approving Official is the Superintendent and by the Assistant Secretary if the Approving Official is the Area Director.

(c) Value of lease production for royalty purposes shall be determined in accordance with applicable lease terms and regulations in 30 CFR chapter II.

(d) If provided for in the lease, the lessor may use gas in excess of the lessee's requirements for the development and operation of schools or other buildings belonging to the Tribe, free of charge. The installation of a pressure regulator on the lessees' pipeline shall be required. The well and the pipeline shall be maintained by the lessee. The lessee shall not be required to pay royalty on gas so used. The use of such gas shall be at the lessor's risk at all times.

§ 211.42 Annual rentals and expenditures for development on leases other than oil and gas and geothermal resources.

(a) Unless otherwise authorized by the Secretary, a lease for minerals other than oil and gas and geothermal resources shall provide for a yearly development expenditure of not less than $10 per acre. All such leases shall provide for a rental payment of not less than $1.25 for each acre or fraction of an acre payable on or before the first day of each lease year.

(b) Within 20 days after the lease year, an itemized statement of the expenditure for development under a lease for minerals other than oil and gas and geothermal resources shall be filed in duplicate with the Superintendent. The lessee must certify the statement under oath.

§ 211.43 Royalty rates for minerals other than oil and gas.

(a) Except as provided in paragraph (b) of this section, the minimum rates for leases of minerals other than oil and gas shall be as follows:

(1) For substances other than coal, asphaltum and allied substances, a royalty rate of not less than 10 percent of the value of production removed or sold from the lease will be established at the nearest shipping point for all ores, metals, or minerals.

(2) For coal to be strip or open pit mined a royalty rate of not less than 12½ percent of the value of production removed or sold from the lease, and for coal removed from an underground mine, a royalty rate of not less than 8 percent of the value of production removed or sold from the lease.

(3) For asphaltum and allied substances, a royalty rate of not less than 12½ percent of the value of production removed and sold from the lease.

(4) For geothermal resources, a royalty rate of not less than 10 percent of the amount or value of steam, or any other form of heat or energy derived from production under the lease and sold or utilized by the lessee or reasonably susceptible to sale or utilization by the lessee. In addition, a rate of not more than 5 percent of any byproduct derived from production under the lease and sold or utilized or reasonably susceptible of sale or utilization by the

lessee, except that the royalty for any byproduct which is a mineral shall be governed by the appropriate paragraph of this section.

(b) A lower royalty rate may be allowed if it is determined to be in the best interest of the Indian mineral owner. Such approval may only be granted by the Area Director if the Approving Official is the Superintendent or by the Assistant Secretary—Indian Affairs, if the Approving Official is the Area Director.

§ 211.44 Suspension of operations.

(a) The Assistant Secretary may, under such terms and conditions as he/she may prescribe, authorize suspension of operations and production in the extended lease term whenever it is determined that remedial operations are necessary for continued production or for protection of the resource of the environment, provided that such remedial operations are conducted with reasonable diligence during the period of non-production according to the provisions in 43 CFR as applicable. Any such suspension shall not relieve the lessee from liability for the payment of rental and minimum royalty or other payments due under the terms of the lease.

(b) An application for permission to suspend operations or production for economic or marketing reasons on a lease capable of production after the expiration of the primary term of the lease must be accompanied by the written consent of the Indian mineral owner and a written agreement executed by the parties setting forth the terms pertaining to the suspension of operations and production. Such application shall be treated as an amendment to the lease and shall be reviewed and approved by the Secretary as such.

§ 211.45 [Reserved]

§ 211.46 Inspection of premises, books and accounts.

Lessees shall allow Indian owners, their representatives, or any authorized representative of the Secretary to enter all parts of the leased premises for the purpose of inspection and audit. Lessees shall keep a full and correct account of all operations and make reports thereof, as required by the lease and applicable regulations. Books and records shall be made available during regular business hours.

§ 211.47 Diligence, drainage and prevention of waste.

The lessee shall: (a) Exercise diligence in mining, drilling and operating wells on the leased lands while minerals production can be secured in paying quantities;

(b) Protect the lease from drainage (if oil and gas or geothermal resources are being drained from the lease premises by a well or wells located on lands not included in the lease, the Secretary reserves the right to impose reasonable and equitable terms and conditions to protect the interest of the Indian mineral owner of the lands, such as payment of compensatory royalty for the drainage);

(c) Carry on operations in a good and workmanlike manner in accordance with approved methods and practices;

(d) Have due regard for the prevention of waste of oil or gas or other minerals, the entrance of water through wells drilled by the lessee to other strata, to the destruction or injury of the oil or gas, other mineral deposits, or fresh water aquifers, the preservation and conservation of the property for future productive operations, and the health and safety of workmen and employees;

(e) Plug securely all wells before abandoning them to effectively shut off all water from the oil or gas-bearing strata;

(f) Not construct any well pad location within 200 feet of any house or barn without the surface owner's written consent;

(g) Carry out, at the lessee's expense, all reasonable orders and requirements of the Authorized Officer relative to prevention of waste;

(h) Bury all pipelines crossing tillable lands below plow depth unless other arrangements are made with the surface owner or tenant; and

(i) Pay the surface owner or tenant all damages, including damages to crops, buildings, and other improvements of the surface owner occasioned by the lessee's operations as determined by the Superintendent.

§ 211.48 Permission to start operations.

(a) No exploration, drilling, or mineral operations are permitted on any leased area before the effective date of the mineral lease. The effective date of the lease for this purpose shall be the date the lease is officially approved by the Secretary pursuant to the regulations in this part.

(b) Written permission must be secured from the Secretary before any operations are started on the leased premises, in accordance with applicable rules and regulations in 30 CFR chapter II, 43 CFR parts 3160, 3260, 3480, 3590, and Orders or Notice to Lessees (NTL) issued thereunder. After such permission is secured, operations must be in accordance with all applicable operating rules and regulations promulgated by the Secretary. Copies of applicable regulations may be obtained from either the Authorized Officer or the Superintendent.

§ 211.49 Restrictions on operations.

Leases issued under the provisions of the regulations in this part shall be subject to such restrictions as to time or times for the well operations and production from any leased premises as the Secretary judges may be necessary or proper for the protection of the natural resources of the leased land and in the interest of the lessor.

§ 211.50 [Reserved]

§ 211.51 Surrender of leases.

A lessee may, with the approval of the Secretary, surrender a lease or any part of it, on the following conditions:

(a) All royalties and rentals due on the date the request for termination is received must be paid;

(b) The Superintendent, after consultation with the Authorized Officer, must be satisfied that proper provisions have been made for the conservation and protection of the property, and that all operations on the portion of the lease surrendered have been properly reclaimed, abandoned, or conditioned, as required;

(c) If a lease has been recorded, the lessee must submit a release along with the recording information of the original lease so that, after acceptance of the release, it may be recorded;

(d) If a lessee requests to surrender an entire lease or an entire undivided portion of a lease, it must surrender the original leases, provided that where the request is made by an assignee to whom no copy of the lease was delivered, the assignee must surrender only its copy of the assignment;

(e) If the lease (or a portion thereof being surrendered) is owned in undivided interests, all lessees owning undivided interests in the lease must join in the request for surrender;

(f) No part of any advance rental shall be refunded to the lessee, nor shall any subsequent surrender or termination of a lease relieve the lessee of the obligation to pay advance rental if it became due prior to the surrender or termination;

(g) If oil and gas is being drained from the leased premises by a well or wells located on lands not included in the lease, the Secretary reserves the right, prior to acceptance of the surrender, to impose reasonable and equitable terms and conditions to protect the interests of the Indian oil and gas owners of the lands surrendered, such as payment of compensatory royalty for any drainage; and

(h) Upon expiration of the term of a solid mineral lease or when a solid mineral lease is surrendered, the lessee shall deliver to the Government the leased premises with the mine workings in good order and condition, and bondsmen will be held for such delivery in good order and condition, unless relieved by the Secretary for cause. Unless otherwise provided in the lease, the machinery necessary to operate the mine is the property of the lessee. However, it may not be removed from the property until the condition of the property has been ascertained by inspection by the Secretary or Authorized Officer to be in satisfactory condition and written permission to remove the machinery has been granted.

§ 211.52 Fees.

Unless otherwise authorized by the Secretary, each permit, lease, sublease, or other contract, or assignment or surrender thereof, shall be accompanied by a filing fee of $75.

§ 211.53 Assignments, overriding royalties, and operating agreements.

(a) *Assignments.* An assignment of any mineral interest shall not be valid without the approval of the Secretary. The Indian mineral owner must also consent if approval of the Indian mineral owner is required in the lease. The assignee must be qualified to hold such a lease under existing regulations and shall furnish a satisfactory bond pursuant to § 211.24 conditioned on the faithful performance of the covenants and conditions thereof. The lessee must assign either the entire interest in a leased area or an undivided interest in the whole lease or leased area. Assignments of stratigraphic horizons and subdivisions of the lease will not be approved. When an assignment creates an overriding royalty, the approval of the assignment is not an approval of the overriding royalty. A fully executed copy of the assignment will be filed with the Secretary immediately after the execution by all parties. The Secretary may permit the release of any bonds executed by the assignor upon execution of satisfactory bonds by the assignee. Upon execution of satisfactory bonds the assignee accepts all the assignor's responsibilities and prior obligations and liabilities of the assignor (including but not limited to any underpaid royalties and rentals) under the lease along with all the conditions on the lease.

(b) *Overriding royalties and operating agreements.* Unless an interest in minerals is being assigned, approval of the Secretary shall not be required for agreements creating overriding royalties or payments out of production, or agreements designating operators. Such agreements shall not modify any of the obligations of the lessee with the Indian mineral owner under the lease and the regulations in this part, including requirements for Secretarial approval before surrender. All such obligations are to remain in full force and effect, the same as if free of any such overriding royalties or payments. Such agreements shall be filed with the Secretary.

§ 211.54 Lease or permit cancellation; notice of noncompliance.

(a) If the Assistant Secretary determines that a permittee or lessee has failed to comply with the Indian mineral leasing laws, the regulations in this part, other applicable laws or regulations, the terms of the permit or lease, the requirements of an approved exploration, drilling or mining plan, Secretarial orders, or the orders of the Authorized Officer or the MMS, he/she may:

(1) If the permittee or lessee has failed to comply with a requirement over which the Assistant Secretary has administrative authority and responsibility, issue a notice of noncompliance specifying in what respect the permittee or lessee has failed to comply with the requirements referenced in this paragraph, and specifying what actions, if any, must be taken to correct the noncompliance; or

(2) For any failure to comply, serve a notice of proposed cancellation of the lease or permit. The notice of proposed cancellation shall set forth the reasons why lease cancellation is proposed.

(b) The notice of proposed cancellation or noncompliance shall be served upon the permittee or lessee by delivery in person or by certified mail to the permittee or lessee at its last known address. Service by certified mail shall be deemed to occur when received or 5 days after the date it is mailed, whichever is earlier (both referred to as the date of service).

(c) The lessee or permittee shall have 20 days (or such longer time as specified in the notice) from the date that the notice of proposed cancellation or noncompliance is served to respond, in writing, to the BIA official actually issuing the notice.

(d) If a permittee or lessee fails to take any action that may be prescribed in the notice of proposed cancellation, fails to file a timely written response to the notice, or files a written response which does not, in the discretion of the Assistant Secretary, adequately justify its actions, then the Assistant Secretary may cancel the lease or permit, specifying the basis for the cancellation.

(e) If a permittee or lessee fails to take corrective action or to file a timely written response adequately justifying its actions pursuant to a notice of noncompliance, the Assistant Secretary may issue an order of cessation. If the permittee or lessee fails to comply with the order of cessation, or fails to timely file an appeal of the order of cessation pursuant to paragraph (f) of this section, the Assistant Secretary may issue an order of lease cancellation.

(f) If orders of cessation or lease cancellation issued pursuant to this Section are issued by a subordinate of the Assistant Secretary, they may be appealed under 25 CFR part 2. If the order is issued by the Assistant Secretary, and not one of his subordinates, it is the final order of the Department.

(g) This section does not limit any other remedies of the Indian mineral owner as set forth in the lease or permit.

(h) Nothing in this section is intended to limit the authority of the Authorized Officer or the MMS official to take any enforcement action authorized pursuant to statute or regulation.

(i) The Authorized Officer, the MMS Official, and the Superintendent should consult with one another before taking any enforcement actions.

§ 211.55 Civil penalties.

(a) Violations of the terms and conditions of any lease, or the regulations in this part, or failure to comply with a notice of noncompliance or a cessation order issued by the Assistant Secretary, or in the case of solid minerals issued by the Authorized Officer, may subject a lessee or operator to a penalty of not more than $1,000 per day for each day that such violation or noncompliance continues beyond the time limits prescribed for corrective action.

(b) A notice of a proposed penalty shall be served on the lessee or operator either personally or by certified mail to the permittee or lessee at its last known address. The date of service for a notice sent by certified mail shall be the date of receipt or five days after the date of mailing to the permittee's last known address, whichever is earlier.

(c) The notice shall specify the nature of the violation and the proposed penalty, and shall specifically advise the lessee or operator of his/her right to either request a hearing within 30 days from receipt of the notice or pay the proposed penalty. Hearings shall be held before the Superintendent, whose findings shall be conclusive, unless an appeal is taken pursuant to 25 CFR part 2.

(d) If the person served with a notice of noncompliance requests a hearing, penalties shall accrue each day until the person corrects the violations set forth in the notice. The Assistant Secretary may suspend the requirement to correct the violations pending completion of the hearings provided by this section if:

(1) The Assistant Secretary determines that suspension will not be detrimental to the lessor and issues a written suspension; and

(2) The person served with the noncompliance notice submits, and the Assistant Secretary accepts, a bond adequate to indemnify the lessor for loss or damage. The amount of the bond must be sufficient to cover any disputed amounts plus accrued penalties and interest.

(e) Payment in full of penalties more than 10 days after final notice that a penalty has been imposed shall subject the lessee or operator to late payment charges. Late payment charges shall be calculated on the basis of a percentage assessment rate of the amount unpaid per month for each month or fraction thereof until payment is received by the BIA. In the absence of a specific lease provision prescribing a different rate, the interest rate on late payments and underpayments shall be a rate applicable under section 6621(a)(2) of the Internal Revenue Code of 1954. Interest shall be charged only on the amount of payment not received and only for the number of days the payment is late.

(f) Lessees or operators also may be subject to penalties under other applicable rules and regulations, or under the terms of an approved lease. None of the provisions of this section shall be interpreted as:

(1) Replacing or superseding the independent authority of the Authorized Officer, the Director, or the MMS official to impose penalties for violations of applicable regulations pursuant to 43 CFR part 3160, and groups 3400 and 3500, or 30 CFR chapter II;

(2) Replacing or superseding any penalty provision in the terms and conditions of a lease approved by the Secretary pursuant to this part; or

(3) Authorizing the imposition of an additional penalty for violations of lease terms for which a penalty has already been assessed by the Authorized Officer or MMS official, or which has been abated to the satisfaction of the Authorized Officer or MMS official within the prescribed abatement period.

§ 211.56 Geological and geophysical permits.

Permits to conduct geological and geophysical operations on Indian lands which do not conflict with any mineral leases entered into pursuant to this part may be approved by the Secretary with the consent of the Indian owner under the following conditions:

(a) The permit must describe the area to be explored, the duration, and the consideration to be paid the Indian owner;

(b) The permit will not grant the permittee any option or preference rights to a lease or other development contract, or authorize the production of, or removal of oil and gas, geothermal resources, or other minerals, except samples for assay and experimental purposes, unless specifically so stated in the permit;

(c) A copy of all data collected pursuant to operations conducted under the permit shall be forwarded to the Secretary and made available to the Indian mineral owner, unless otherwise provided in the permit. Data collected under a permit may be held by the Secretary as privileged and proprietary information for the time prescribed in the permit. Where no time period is prescribed in the permit, the Secretary may release the data upon request.

§ 211.57 Forms.

Leases, bonds, permits, assignments, and other instruments relating to mineral leasing shall be on forms prescribed by the Secretary which may be obtained from the Superintendent. The provisions of a standard lease or permit may be changed, deleted, or added to by written agreement of all parties with the approval of the Secretary.

§ 211.58 Appeals.

Appeals from decisions of Bureau of Indian Affairs officers under this part may be made pursuant to 25 CFR part 2.

PART 212—LEASING OF ALLOTTED LANDS FOR MINERAL DEVELOPMENT

Subpart A—General

Sec.

Subpart B—How to Acquire Leases

Subpart C—Rents, Royalties, Cancellations, and Appeals

Authority: Act of March 3, 1909 (35 Stat. 783,25 U.S.C. 396 (as amended)); Act of May 11, 1938 (Sec. 2, 52 Stat. 347; 25 U.S.C. 396 b-g; Act of August 1, 1956 (70 Stat. 774)).

Subpart A—General

§ 212.1 Purpose and scope.

(a) The regulations in this part govern leases for the development of individual Indian oil and gas, geothermal and solid mineral resources. These regulations are intended to ensure that the resources of Indian mineral owners will be developed in a manner that maximizes the owners' best economic interests and minimizes any adverse environmental or cultural impact on Indians. The regulations of the Bureau of Land Management, the Office of Surface Mining Reclamation and Enforcement, and the Minerals Management Service that are referenced in §§ 211.4, 211.5, and 211.6 are supplemental to these regulations, and apply to parties holding leases or permits for development of

Indian mineral resources unless specifically stated otherwise in this part or in such other regulations.

(b) The regulations in this part do not apply to leasing and development governed by regulations in 25 CFR parts 213 (Five Civilized Tribes of Oklahoma), 226 (Osage), and 227 (Wind River Reservation).

(c) Nothing in these regulations is intended to prevent Indian tribes from exercising their lawful governmental authority to regulate the conduct of persons, businesses, operations or mining within their territorial jurisdiction.

(d) The regulations in this part are subject to amendment at any time by the Secretary of the Interior. No regulations which become effective after the date of approval of any lease shall operate to affect the duration of the lease, rate of royalty, rental, or acreage unless agreed to by all parties to the lease.

§ 212.2 Information collection.

The Office of Management and Budget has informed the Department of the Interior that the Information Collection Requirements contained in this part 212 need not be reviewed by them under the Paperwork Reduction Act (44 U.S.C. 3501; *et seq*).

§ 212.3 Definitions.

As used in this part, the following terms have the specified meaning except where otherwise indicated—

Approving Official means the Bureau of Indian Affairs official with delegated authority to approve a lease.

Area Director means the Bureau of Indian Affairs official in charge of an Area Office.

Assistant Secretary means the Assistant Secretary of Indian Affairs, Department of the Interior, or his/her designee.

Authorized Officer means any employee of the Bureau of Land Management authorized by law or by lawful delegation of authority to perform the duties described herein and in 43 CFR parts 3160, 3260, 3480, and 3590.

Bureau means the Bureau of Indian Affairs.

Gas means any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at ordinary temperatures and pressure conditions.

Geological and geophysical permit means a written authorization to conduct on-site surveys to locate potential deposits of oil and gas, geothermal or solid mineral resources on the lands.

Geothermal resources means: (1) All products of geothermal processes, embracing indigenous stream, hot water and hot brines;

(2) Steam and other gases, hot water, and hot brines, resulting from water, gas or other fluids artificially introduced into geothermal formations;

(3) Heat or other associated energy found in geothermal formations; and

(4) Any by-product derived therefrom.

In the best interest of the Indian mineral owner refers to the standards to be applied by the Bureau in considering whether to take an administrative action affecting the interests of an Indian mineral owner. In considering whether it is "in the best interest of the Indian mineral owner" to take a certain action (such as approval of a lease, permit, unitization or communitization agreement), the Bureau may consider any relevant factor, including, but not limited to, economic considerations such as date of lease expiration, probable financial affect on the Indian owner, leasability of land concerned, need for change in the terms of the existing lease, marketability and potential environmental, social, and cultural effects.

Indian lands means any lands owned by any individual Indian or Alaska Native, Indian tribe, band, nation, pueblo, community, rancheria, colony, or other group which owns lands or interest in the minerals, the title to which is held in trust by the United States or is subject to restriction against alienation imposed by the United States.

Indian mineral owner means any individual Indian who owns mineral resources, the title to which is held in trust by the United States, or is subject to the restriction against alienation imposed by the United States.

Indian surface owner means any individual Indian or Indian tribe whose surface estate held in trust by the United States, or is subject to restriction against alienation imposed by the United States.

Lease means any contract, profit-sharing arrangement, joint venture, or other agreement approved by the United States under the Act of May 11, 1938 (52 Stat. 347) or the Act of August 1, 1956 (70 Stat. 774) as amended, that authorizes exploration for, extraction of, or removal of any minerals.

Lessee means a person, proprietorship, partnership, corporation, or other business entity which has made application for, or is negotiating with, or entered into a lease with an Indian mineral owner, or who has been assigned an obligation to make royalty or other payments required by the lease.

Lessor means an Indian mineral owner.

Minerals includes both metalliferous and non-metalliferous minerals, all hydrocarbons including oil, gas, and coal, geothermal resources, and includes but is not limited to, sand, gravel, pumice, cinders, granite, building stone, limestone, clay, silt, or any energy or other non-energy mineral.

Minerals Management Service Official means any employee of the Minerals Management Service (MMS) authorized by law or by lawful delegation of authority to perform the duties described in 30 CFR chapter II, subchapter A.

Mining means the science, technique, and business of mineral development including, but not limited to, opencast, underground work, and in-situ leaching, directed to severance and treatment of minerals, provided when sand, gravel, pumice, cinders, granite, building stone, limestone, clay or silt is the subject mineral, an enterprise is considered "mining" only if the extraction of such mineral exceeds 5,000 cubic yards in any given year.

Oil means all nongaseous hydrocarbon substances other than those substances leasable as coal, oil shale or gilsonite (including all veintype solid hydrocarbons). Oil includes liquefiable hydrocarbon substances such as drip gasoline and other natural condensates recovered or recoverable in a liquid state from produced gas without resorting to a manufacturing process.

Secretary means the Secretary of the Interior or an authorized representative.

Solid Minerals means all minerals excluding oil and gas or geothermal resources.

Superintendent means the Bureau Agency Superintendent or a designated representative authorized by law or lawful delegation of authority having jurisdiction over the oil and gas, geothermal or solid mineral resources subject to leasing under this part.

Tar sand means any consolidated or unconsolidated rock (other than coal, oil shale or gilsonite) that either: (1) Contains a hydrocarbonaceous material with a gas-free viscosity, at original reservoir temperature greater than 10,000 centipoise, or (2) contains a hydrocarbonaceous material and produced by mining or quarrying.

§ 212.4 Authority and responsibility of the Bureau of Land Management (BLM).

The functions of the Bureau of Land Management are found in 43 CFR Part 3160—Onshore Oil and Gas Operations, 43 CFR Part 3260—Geothermal Resources Operations, 43 CFR Part 3480—Coal Exploration and Mining Operations, and 43 CFR Part 3590—Solid

Minerals (other than coal) Exploration and Mining Operations, and currently include, but are not limited to, resource evaluation, approval of drilling permits, mining and reclamation, production plans, mineral appraisals, inspection and enforcement, and production verification. These authorities, as amended, apply to leases or permits affecting Indian lands and mineral resources.

§ 212.5 Authority and responsibility of the Office of Surface Mining Reclamation and Enforcement (OSMRE).

The OSMRE is the regulatory authority for surface coal mining and reclamation operations on Indian lands pursuant to the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et. seq*). These responsibilities are found in 30 CFR part 750, and 25 CFR part 216. The authorities, as amended, apply to leases or permits affecting Indian lands.

§ 212.6 Authority and responsibility of the Minerals Management Service (MMS).

The functions of the MMS for reporting, accounting, and auditing are found in 30 CFR chapter II. These authorities, as amended, apply to leases affecting Indian lands.

§ 212.7 Environmental studies.

The provisions of § 211.7 of this subchapter, as amended, are applicable to leases under this part.

§ 212.8 Government employees cannot acquire leases.

Government employees are prevented from acquiring leases or interests in leases by the provisions of 25 CFR part 140 and 43 CFR part 20 pertaining to conflicts of interest and ownership of an interest in trust land.

Subpart B—How to Acquire Leases

§ 212.20 Leasing procedures.

(a) Application for leases shall be made to the appropriate Superintendent.

(b) Indian mineral owners may request the Secretary to prepare, advertise and negotiate mineral leases on their behalf. If requested by the Indian mineral owners, the Secretary may use the following procedure for leasing:

(1) Leases shall be advertised to receive optimum competition for bonus consideration, under sealed bid, oral auction, or a combination of both. Notice of such advertisement shall be published in at least one local newspaper and in one trade publication at least 30 days in advance of sale. If applicable, the notice must identify the reservation within which the tracts to be leased are found. No specific description of the tracts to be leased need be published. Specific description of such tracts shall be available at the office of the Superintendent upon request. The complete text of the advertisement, including a specific description, shall be mailed to each person listed on the appropriate agency mailing list. Individuals and companies interested in receiving advertisements on lease sales should send their mailing information to the Bureau for future reference.

(2) The advertisement shall offer the tracts to a responsible bidder offering the highest bonus. Bids shall be accepted only for bonus considerations. The rental and royalty rates shall be stated in the advertisement and will not be subject to negotiation. The advertisement shall provide that the Secretary reserves the right to reject any or all bids, and that acceptance of the lease bid by or on behalf of the Indian mineral owner is required.

(3) Each sealed bid must be accompanied by a cashier's check, certified check or postal money order, or any combination thereof, payable to the payee designated in the advertisement, in an amount not less than 25 percent of the bonus bid, which shall be returned if that bid is not accepted.

(4) A successful oral auction bidder will be allowed five working days to remit the required 25 percent deposit of the bonus bid.

(5) A successful bidder shall, within 30 days after notification of the bid award, remit to the Secretary the balance of the bonus, the first year's rental, a $75 filing fee, its prorated share of the advertising costs as determined by the Bureau, and file with the Secretary all required bonds. The successful bidder shall also file the lease in completed form, signed by the Indian mineral owner(s), at that time. However, for good reasons, the Secretary may grant extensions of time in 30 day increments for filing of the lease and all required bonds, provided that additional extension requests are submitted and approved prior to the expiration of the original 30 days or the previously granted extension. Failure on the part of the bidder to comply with the foregoing may result in forfeiture of the required payment of 25 percent of any bonus bid for the use and benefit of the Indian mineral owner.

(6) If no satisfactory bid is received, or if the accepted bidder fails to complete all requirements necessary for approval of the lease, or if the Secretary determines that it is not in the best interest of the Indian mineral owner to accept the highest bid, the Secretary may re-advertise the lease for sale, or subject to the consent of the Indian mineral owner, the lease may be let through private negotiations.

§ 212.21 Execution of leases.

(a) The Secretary may execute a mineral lease on behalf of an Indian mineral owner only when the owner is deceased and the heirs to or devisee of the estate either have not been determined, or if determined, some or all of them cannot be located. Leases involving such interests may be executed by the Secretary, provided that the mineral interest shall have been offered for sale under the provisions of § 212.20(b)(1)–(6).

(b) The Secretary shall execute leases on behalf of minors and persons who are incompetent by reason of mental incapacity.

(c) If an owner is a life tenant, the procedures set forth in 25 CFR part 179 (Life Estates and Future Interests), shall apply.

§ 212.22 Leases for subsurface storage of oil and gas.

The provisions of § 211.22 of this subchapter, as amended, are applicable to leases under this part.

§ 212.23 Corporate qualifications and requests for information.

The provisions of § 211.23 of this subchapter, as amended, are applicable to leases under this part.

§ 212.24 Bonds.

The provisions of § 211.24 of this subchapter, as amended, are applicable to leases under this part.

§ 212.25 Acreage limitation.

The provisions of § 211.25 of this subchapter, as amended, are applicable to leases under this part.

§ 212.26 [Reserved]

§ 212.27 Duration of leases.

The provisions of § 211.27 of this subchapter, as amended, are applicable to leases under this part.

§ 212.28 Unitization and communitization agreements, and well spacing for oil, gas, and geothermal resources.

The provisions of § 211.28 of this subchapter, as amended, are applicable to leases under this part.

§ 212.29 [Reserved]

§ 212.30 Removal of restrictions.

(a) Notwithstanding the provisions of any mineral lease to the contrary, the removal of all restrictions against alienation shall operate to divest the Secretary of all supervisory authority and responsibility with respect to the

lease. Thereafter, all payments required to be made under the lease shall be made directly to the owner(s).

(b) In the event restrictions are removed from a part of the land included in any lease approved by the Secretary, the entire lease shall continue to be subject to the supervision of the Secretary until the holder of the lease and the unrestricted Indian owner furnish to the Secretary satisfactory evidence that adequate arrangements have been made to account for the mineral resources of the restricted land separately from those of the unrestricted. Thereafter, the unrestricted portion shall be relieved from the supervision of the Secretary, the lease and all applicable laws and regulations.

§ 212.31 [Reserved]

§ 212.32 [Reserved]

§ 212.33 Terms applying after relinquishment.

All leases for individual Indian lands approved by the Secretary under this part shall contain provisions for the relinquishment of supervision and provide for operation of the lease after relinquishment. These leases shall contain provisions that address the following issues:

(a) *Provisions of relinquishment.* If the Secretary relinquishes supervision at any time during the life of a lease of all or part of the acreage subject to the lease, he/she shall give the Indian mineral owner and the lessee 30 days written notice prior to the termination of supervision. After notice of relinquishment has been given to the lessee, the lease shall be subject to the following conditions:

(1) All rentals and royalties thereafter accruing shall be paid directly to the lessor or the lessor's successors in title, or to a trustee appointed under the provisions of paragraph (b) of this section.

(2) If at the time supervision is relinquished by the Secretary the lessee shall have made all payments then due and shall have fully performed all obligations on its part to be performed up to the time of such relinquishment, the bond given to secure the performance of the lease shall be of no further force or effect.

(3) If relinquishment affects only part of a lease, the lessee may continue to conduct operations on the land covered by the lease as an entirety. In this case, the lessee shall:

(i) Pay in the manner prescribed by the lease and regulations a percentage of the rentals and royalties due equal supervision of the Secretary; and

(ii) Pay the remainder of the rentals and royalties due under the lease to the lessor, the lessor's successors in title, or the trustee, as appropriate, in accordance with paragraph (a)(1) of this section.

(b) *Division of fee.* (1) If the Secretary relinquishes supervision of a lease whose fee is divided into separate parcels held by different owners, or for which ownership of the rental or royalty interest is divided, the lessee may continue to conduct operations on the leased land as an entirety in accordance with the original terms and conditions of the lease.

(2) After the vesting of his/her title, each owner shall receive a proportion of all rental and royalties accrued. This proportion shall be one of the following, as appropriate:

(i) A percentage of all rental and royalties equal to the percentage the acreage of the fee bears to the entire acreage of the lease; or

(ii) A percentage of the rental or royalty interest equal to the percentage the rental or royalty interest of the fee bears to the entire rental or royalty interest.

(3) If there are four or more parties entitled to rentals and royalties, the lessee may withhold payment of rental and royalty fees until all of the parties agree upon and designate in a written recordable instrument a trustee to receive all payments due on their behalf.

(i) In the paragraph (b)(4) of this section, "parties entitled" refers to parties entitled either by virtue of undivided interest or by virtue of ownership of separate parcels of land covered by the lease.

(ii) the lessee may not withhold in accordance with paragraph (b)(4) of this section the portion of a rental or royalty due an Indian lessor while under restriction.

(iii) Payments to the designated trustee shall constitute lawful payments. The sole risk of improper distribution of funds by the trustee shall rest upon the parties who named the trustee and their designated successors in title.

§ 212.34 Individual tribal assignment excluded.

The reference in this part to "allottees" and "allotments" does not include assignments of tribal lands made pursuant to tribal constitutions or ordinances for the use of individual Indians and assignees of such lands.

Subpart C—Rents, Royalties, Cancellations, and Appeals

§ 212.40 Manner of payments.

The provisions of § 211.40 of this subchapter, as amended, are applicable to leases under this part.

§ 212.41 Rentals and production royalty on oil and gas leases.

(a) An oil and gas lessee shall pay, in advance, beginning with the effective date of the lease, an annual minimum rental of $1.25 per acre or such other greater amount as provided for in the lease. This rental shall not be credited against production royalty nor shall the rental be prorated or refunded because of surrender or cancellation.

(b) Leases with a royalty rate less than 16⅔ percent of the amount or value of production removed or sold from the lease shall be approved only if a lower royalty rate is determined to be in the best interest of the Indian mineral owner. Such approval may only be granted by the Area Director if the Approving Official is the Superintendent and the Assistant Secretary if the Approving Official is the Area Director.

(c) Value of lease production for royalty purposes shall be determined in accordance with applicable lease terms and regulations in 30 CFR chapter II.

§ 212.42 Annual rentals and expenditures for development on leases other than oil and gas.

The provisions of § 211.43 of this subchapter, as amended, are applicable to leases under this part.

§ 212.43 Royalty rates for minerals other than oil and gas.

The provisions of § 211.43 of this subchapter, as amended, are applicable to leases under this part.

§ 212.44 Suspension of operations.

The provisions of § 211.44 of this subchapter, as amended, are applicable to leases under this part.

§ 212.45 [Reserved]

§ 212.46 Inspection of premises, books, and accounts.

The provisions of § 211.46 of this subchapter, as amended, are applicable to leases under this part.

§ 212.47 Diligence, drainage and prevention of waste.

The provisions of § 211.47 of this subchapter, as amended, are applicable to leases under this part.

§ 212.48 Permission to start operations.

The provisions of § 211.48 of this subchapter, as amended, are applicable to leases under this part.

§ 212.49 Restrictions on operations.

The provisions of § 211.49 of this subchapter, as amended, are applicable to leases under this part.

§ 212.50 [Reserved]

§ 212.51 Surrender of leases.

The provisions of § 211.51 of this subchapter, as amended, are applicable to leases under this part.

§ 212.52 Fees.

The provisions of § 211.52 of this subchapter, as amended, are applicable to leases under this part.

§ 212.53 Assignments, overriding royalties, and operating agreements.

The provisions of § 211.53 of this subchapter, as amended, are applicable to leases under this part.

§ 212.54 Lease or permit cancellation; notice of noncompliance.

The provisions of § 211.54 of this subchapter, as amended, are applicable to leases under this part.

§ 212.55 Civil penalties

The provisions of § 211.55 of this subchapter, as amended, are applicable to this part.

§ 212.56 Geological and geophysical permits.

(a) Permits to conduct geological and geophysical operations on Indian lands which do not conflict with any mineral lease entered into pursuant to this part may be approved by the Secretary with the consent of the Indian owner under the following conditions:

(1) The permit must describe the area to be explored, the duration, and the consideration to be paid the Indian owner;

(2) The permit may not grant the permittee any option or preference rights to a lease or other development contract, or authorize the production of or removal of oil and gas or geothermal resources, or other minerals (except samples for assay and experimental purposes), unless specifically so stated in the permit;

(3) A copy of all data collected pursuant to operations conducted under the permit shall be forwarded to the Secretary and made available to the Indian mineral owner, unless otherwise provided in the permit. Data collected under a permit shall be held by the Secretary as privileged and proprietary information for the time prescribed in the permit. Where no time period is prescribed in the permit, the Secretary may, in his/her discretion, release the data upon request.

(b) A permit may be granted by the Secretary without 100 percent consent of the individual mineral owners if:

(1) The minerals are owned by more than one person, and the owners of a majority of the interest consent to the permit;

(2) The whereabouts of the owners of the minerals or an interest therein is unknown, and the owner or owners of any interests therein whose whereabouts is known consent to the permit; or

(3) The heirs or devisee of a deceased owner of the land or an interest therein have not been determined, and the Secretary finds that the permit activity will cause no substantial injury to the land or any owner thereof; or

(4) The owners of interests in the land are so numerous that the Secretary finds it would be impractical to obtain their consent, and also finds that the permit activity will cause no substantial injury to the land or any owner thereof.

(c) A lessee does not need a permit to conduct geological and geophysical operations on Indian lands, if provided for in the lessee's mineral lease, where the Indian mineral owner is also the surface land owner. In instances where the Indian mineral owner is not the surface owner, the lessee must obtainany additional necessary permits or rights of ingress or egress from the surface occupant.

§ 212.57 Forms.

The provisions of § 211.57 of this subchapter, as amended, are applicable to leases under this part.

§ 212.58 Appeals.

The provisions of § 211.58 of this subchapter, as amended, are applicable to leases under this part.

PART 225—OIL AND GAS, GEOTHERMAL, AND SOLID MINERAL AGREEMENTS

Subpart A—General

Sec.

Subpart B—Minerals Agreements

Authority: 25 U.S.C. 2101 *et seq.*

Subpart A—General

§ 225.1 Purpose and scope.

(a) The regulations in this part govern agreements for the development of Indian-owned minerals entered into pursuant to the Indian Mineral Development Act of 1982 (Pub. L. 97-382, 25 U.S.C. 2101 *et seq.*). These regulations are intended to ensure that Indian tribes are permitted to enter into agreements which allow for more responsibility in overseeing and greater flexibility in disposing of their mineral resources, and to allow development in the manner which the tribe believes will maximize its best economic interest and minimizes any adverse environmental or cultural impact resulting from such development. Pursuant to section 4 of the Act (25 U.S.C. 2101(e)), as part of this greater flexibility, the tribe bears the responsibility for any business risks which may be inherent in the agreement. If the Secretary approves an agreement in compliance with the provisions of the 1982 Act, then the United States shall not be liable for losses sustained by a tribe or individual Indian under such agreement. However, as further stated in the 1982 Act, the Secretary continues to have a trust obligation to ensure that the rights of a tribe or individual Indian are protected in the event of a violation of the terms of any agreement, and to uphold the duties of the United States as derived from the trust relationship and from any treaties, Executive orders, or agreements between the United States and any Indian tribe.

(b) The regulations in this part shall become effective and in full force on and after the date of approval, and shall be subject to amendment at any time by

the Secretary of the Interior; *Provided,* That no regulations which become effective after the date of approval of any agreement shall operate to affect the duration of the agreement, the rate of royalty or financial consideration, rental, or acreage unless agreed to by all parties to the agreement.

(c) The regulations of the Bureau of Land Management, the Office of Surface Mining Reclamation and Enforcement, and the Minerals Management Service that are referenced in §§ 211.4, 211.5, and 211.6 are supplemental to these regulations, and apply to parties holding agreements for development of Indian mineral resources unless specifically stated otherwise in this part or in such other regulations.

(d) Nothing in these regulations is intended to prevent Indian tribes from exercising their lawful governmental authority to regulate the conduct of persons, businesses, operations or mining within their territorial jurisdiction.

§ 225.2 Information collection.

The Office of Management and Budget has informed the Department of the Interior that the Information Collection Requirements contained in this part 225 need not be reviewed by them under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

§ 225.3 Definitions.

As used in this part, the following terms have the specified meaning except where otherwise indicated.

Agreement means any joint venture, operating, production sharing, service, managerial, lease, (other than a lease entered into pursuant to the Act of May 11, 1938 and the Act of March 3, 1909), contract, or other minerals agreement, or any amendment, supplement or other modification of such agreement, providing for the exploration for, or extraction, processing, or other development of minerals, or providing for the sale or disposition of the production or products of such mineral resources.

Area Director means the Bureau of Indian Affairs Official in charge of an Area Office.

Assistant Secretary means the Assistant Secretary of Indian Affairs, Department of the Interior, or his/her designee.

Authorized Officer means any employee of the Bureau of Land Management authorized by law or by lawful delegation of authority to perform the duties described herein and in 43 CFR parts 3160, 3260, 3480 and 3590.

Bureau means the Bureau of Indian Affairs.

Gas means any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at ordinary temperatures and pressure conditions.

Geothermal resources means: (1) All products of geothermal processes, embracing indigenous steam, hot water, and hot brines;

(2) Steam and other gases, hot water, and hot brines, resulting from water, gas, or other fluids artificially introduced into geothermal formations;

(3) Heat or other associated energy found in geothermal formations; and

(4) Any by-product derived therefrom.

In the best interest of the Indian mineral owner refers to the standards to be applied by the Bureau in considering whether to take administrative action affecting the interests of an Indian mineral owner. In considering whether it is "in the best interest of the Indian mineral owner" to take a certain action (such as approval of a minerals agreement, permit, unitization or communitization agreement) the Bureau may consider any relevant factor, including, but not limited to economic considerations such as date of lease expiration, probable financial affect on the Indian owner, leasability of land concerned, need for change in the terms of the existing lease or mineral agreement, and marketability.

Indian lands means any lands owned by any individual Indian or Alaska Native, Indian tribe, band, nation, pueblo, community, rancheria, colony, or other group which owns lands or interest in the minerals, the title to which is held in trust by the United States or is subject to restriction against alienation imposed by the United States.

Indian mineral owner means any individual Indian or Alaska Native, or Indian tribe, band, nation, pueblo, community, rancheria, colony, or other group which owns mineral interest in oil and gas, geothermal or solid mineral resources, the title to which is held in trust by the United States, or is subject to a restriction against alienation imposed by the United States.

Indian surface owner means any individual Indian or Alaska Native, or Indian tribe, band, nation, pueblo, community, rancheria, colony, or other group which owns surface estate held in trust by the United States or is subject to a restriction against alienation imposed by the United States.

Indian tribe means any, Indian tribe, band, nation, pueblo, community, rancheria, colony, or other group which owns lands or interests in land title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States.

Individual Indian means an individual Indian or Alaska Native who owns lands or interest in land the title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States.

Lessor means Indian mineral owner.

Minerals includes both metalliferous and non-metalliferous minerals, all hydrocarbons including oil and gas, and coal, geothermal resources, and includes but is not limited to, sand, gravel, pumice, cinders, granite, building stone, limestone, clay, silt, or any energy or other non-energy mineral.

Minerals Management Service Official means any employee of the Minerals Management Service (MMS) authorized by law or by lawful delegation of authority to perform the duties described, in 30 CFR chapter II.

Mining means the science, technique, and business of mineral development, including, but not limited to, opencast, underground work, and in-situ leaching, directed to severance and treatment of minerals; however, when sand, gravel, pumice, cinders, granite, building stone, limestone, clay or silt is the subject mineral, an enterprise is considered "mining" only if the extraction of such mineral exceeds 5,000 cubic yards in any given year.

Oil means all nongaseous hydrocarbon substances other than those substances leasable as coal, oil shale or gilsonite (including all veintype solid hydrocarbons). Oil includes liquefiable hydrocarbon substances such as drip gasoline and other natural condensates recovered or recoverable in a liquid state from produced gas without resorting to a manufacturing process.

Operator means a person, proprietorship, partnership, corporation, or other business entity which has made application for, or is negotiating with an Indian owner with respect to, or has entered into an agreement under the authority of the Indian Mineral Development Act of 1982.

Secretary means the Secretary of the Interior or an authorized representative.

Solid minerals means all minerals excluding oil and gas or geothermal resources.

Superintendent means the Bureau Agency Superintendent or a designated representative authorized by law or lawful delegation of authority having jurisdiction over the mineral resources covered by an agreement under this part.

Tar sand means any consolidated or unconsolidated rock (other than coal, oil

shale or gilsonite) that either: (1) Contains a hydrocarbonaceous material with a gas-free viscosity, at original reservoir temperature greater than 10,000 centipoise, or (2) contains a hydrocarbonaceous material and produced by mining or quarrying.

§ 225.4 Authority and responsibility of the Bureau of Land Management (BLM).

The functions of the Bureau of Land Management are found in 43 CFR part 3160—Onshore Oil and Gas Operations, 43 CFR part 3260—Geothermal Resources Operations, 43 CFR part 3480—Coal Exploration and Mining Operations, and 43 CFR part 3590—Solid Minerals (other than coal) Exploration and Mining Operations, and currently include, but are not limited to, resource evaluation, approval of drilling permits, mining and reclamation, production plans, mineral appraisals, inspection and enforcement, and production verification. These authorities, as amended, apply to agreements affecting Indian lands.

§ 225.5 Authority and responsibility of the Office of Surface Mining Reclamation and Enforcement (OSMRE).

The OSMRE is the regulatory authority for surface coal mining and reclamation operations on Indian lands pursuant to the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq*). These responsibilities are found in 30 CFR part 750 and 25 CFR part 216. These authorities, as amended, apply to agreements affecting Indian lands.

§ 225.6 Authority and responsibility of the Minerals Management Service (MMS).

The functions of the MMS for reporting, accounting, and auditing are found in 30 CFR chapter II. These authorities, as amended, apply to agreements affecting Indian lands.

Subpart B—Mineral Agreements

§ 225.20 Authority to contract.

(a) Any Indian tribe, subject to the approval of the Secretary and any limitation or provision contained in its constitution or charter, may enter into a minerals agreement with respect to mineral resources in which such Indian tribe owns an interest.

(b) Any individual Indian owning a restricted interest in mineral resources may include such resources in a tribal mineral agreement subject to the concurrence of the parties and a finding by the Secretary that such participation is in the best interest of the Indian mineral owner.

§ 225.21 Negotiation procedures.

(a) An Indian mineral owner that wishes to enter into a minerals agreement may ask the Secretary for advice, assistance and information during the negotiation process, and such advice, assistance and information shall be provided to the extent allowed by available resources.

(b) No particular form of agreement is prescribed. In preparing the agreement the Indian tribe should, if applicable, address the following provisions:

(1) A general statement identifying the parties to the agreement, legal description of the lands, and the purposes of the agreement.

(2) A statement setting forth the duration of the agreement;

(3) A statement indemnifying the lessors and the United States from all claims, liabilities and causes of action that may arise from the agreement.

(4) Provisions setting forth the obligations of the contracting parties;

(5) Provisions describing the methods of disposition of production;

(6) Provisions outlining the amount and method of compensation to be paid;

(7) Provisions establishing the accounting procedures to be followed by the operator;

(8) Provisions establishing the operating and management procedures to be followed;

(9) Provisions establishing the operator's rights of assignment;

(10) Bond requirements;

(11) Insurance requirements;

(12) Provisions establishing audit procedures;

(13) Provisions for resolving disputes;

(14) A force majeure provision;

(15) Provisions describing the rights of the parties to terminate or suspend the agreement, and the procedures to be followed in the event of termination or suspension;

(16) Provisions describing the nature and schedule of the activities to be conducted by the operator;

(17) Provisions describing to the best of the operator's knowledge, future abandonment, reclamation and restoration activities;

(18) Provisions for reporting production and sales;

(19) Provisions for unitizing or communitizing of lands included in an agreement for the purpose of promoting conservation and efficient utilization of natural resources; and

(20) Provisions for record keeping requirements.

(c) In order to avoid delays in obtaining approval, the tribe may confer with the Secretary prior to formally executing the agreement, and seek advice as to whether the agreement appears to meet the requirement of § 225.22, or whether modifications, additions, or corrections will be required in order to obtain Secretarial approval.

(d) The executed agreement, together with a copy of a tribal resolution authorizing tribal officers to enter into the agreement, shall be forwarded to the Secretary for approval.

§ 225.22 Approval of agreements.

(a) A minerals agreement submitted for approval shall be approved or disapproved within: (1) One hundred and eighty (180) days after submission or, (2) sixty (60) days after compliance, if required, with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or any other requirement of Federal law, whichever is later.

(b) At least 30 days prior to approval or disapproval of any minerals agreement, the affected Indian mineral owners shall be provided with written findings forming the basis of the Secretary's intent to approve or disapprove such agreement. The written findings shall include an environmental study which meets the requirements of § 225.24 and an economic assessment as described in § 225.23, if needed. The Secretary shall include in the written findings any recommendations for changes to the agreement needed to qualify it for approval. The 30-day period shall commence to run as of the date the notice is received by the tribe. Notwithstanding any other law, such findings and all projections, studies, data or other information (other than the environmental study required by § 225.24) possessed by the Department of the Interior regarding the terms and conditions of the minerals agreement, the financial return to the Indian parties thereto, or the extent, nature, value or disposition of the mineral resources, or the production, products or proceeds thereof, shall be held by the Department of the Interior as privileged and proprietary information of the affected Indian mineral owners. The letter containing the written findings should be headed with:

"PRIVILEGED PROPRIETARY INFORMATION OF THE (name of tribe and/or Indian mineral owners)."

(c) A minerals agreement may be approved by the Secretary if in his/her discretion he/she determines that the following conditions are met:

(1) The minerals agreement is in the best interest of the Indian mineral owner;

(2) The minerals agreement does not have an adverse cultural, social, or environmental impact on the Indian community or lands sufficient to outweigh its expected benefits to the Indian mineral owners; and

(3) The minerals agreement complies with the requirements of this Part and all other applicable regulations or the provisions of applicable Federal law.

(d) The determinations required by paragraph (c) of this section shall be based on the written findings required by paragraph (b) of this section. The question of "best interest" within the meaning of paragraph (c)(1) of this section shall be determined by the Secretary based on information obtained from the parties, and any other information considered relevant by the Secretary, including, but not limited to, a review of comparable contemporary contractual arrangements or offers for the development of similar mineral resources received by Indian mineral owners, by non-Indian mineral owners, or by the Federal Government, insofar as that information is readily available.

(e) If the Secretary believes that an agreement should not be approved, a written statement of the reasons why the agreement should not be approved shall be prepared and forwarded, together with the agreement, the written findings required by paragraph (b) of this section, and all other pertinent documents, to the Assistant Secretary for decision with a copy to the affected Indian mineral owner.

(f) The Assistant Secretary shall review any agreement referred which contains a recommendation that it be disapproved, and shall make the final decision for the Department.

§ 225.23 Economic assessments.

The Secretary shall prepare or cause to be prepared an economic assessment and shall address among other things:

(a) Whether there are assurances in the mineral agreement that operations shall be conducted with appropriate diligence;

(b) Whether the production royalties or other form of return on mineral resources is adequate; and

(c) When a method of contracting for development of mineral resources other than by the competitive bidding procedures is used, whether that method is likely to provide the Indian mineral owner with a share of the return on the production equal to what the owner might otherwise obtain through competitive bidding, when such a comparison can readily be made.

§ 225.24 Environmental studies.

(a) The Secretary shall ensure that all environmental studies are prepared as required by the National Environmental Policy Act of 1969 (NEPA) and the regulations promulgated by the Council for Environmental Quality (CEQ) 40 CFR parts 1500–1508.

(b) In order to make a determination of the effect of a contract on prehistoric, historic, architectural, archeological, cultural, and scientific resources, in compliance with the National Historic Preservation Act, 16 U.S.C. 470 *et seq.* Executive Order 11593 (May 1971), the Archeological and Historic Preservation Act, 16 U.S.C. 469a–1 *et seq.*, and the American Indian Religious Freedom Act (Pub. L. 95–341), the Secretary shall, prior to approval of an agreement, ensure that surveys are performed to determine the effect of the exploration and mining activities on properties which are listed in the National Register of Historic Places, or are eligible for listing in the National Register. If the surveys indicate that properties listed in or eligible for listing in the National Register will be affected, the Secretary shall seek the comments of the Advisory Council on Historic Preservation pursuant to 36 CFR part 800. If the mineral development will have an adverse effect on such properties, the Secretary shall ensure that either the properties will be avoided, the effects mitigated, or the data describing the historic property preserved.

§ 225.25 Resolution of disputes.

A mineral agreement shall provide a dispute resolution mechanism (e.g., binding arbitration or mediation). The Secretary shall not be made a party to the dispute resolution mechanism. The dispute resolution mechanism provided in the mineral agreement may be preempted by the Secretary if in his/her discretion he/she should take action pursuant to §§ 225.36 and 225.37 concerning cancellation and enforcement of orders and penalties.

§ 225.26 Auditing and accounting.

The Secretary may conduct audits relating to the scope, nature and extent of compliance with the agreement and with applicable regulations and orders to lessees, operators, revenue payors, and other persons with rental, royalty, net profit share and other payment requirements on a minerals agreement. Procedures for determining net profits or lessor compensation from net profits agreements, joint venture agreements or other mineral agreement will be in accordance with the Council of Petroleum Accountant Societies standards and guidelines unless otherwise stated in the agreement.

§ 225.27 Forms and reports.

Forms relating to mineral agreements prescribed by the Secretary may be obtained from the Superintendent. Reports required by the MMS shall be filed using the forms prescribed in 30 CFR part 210, which are available from MMS. Guidance on how to prepare and submit required information, collection reports, and forms to MMS is available from: Minerals Management Service, Attention: Lessee (or Reporter) Contact Branch, PO Box 5760, Denver, Colorado 80217. Additional reporting requirements may be required by the Secretary.

§ 225.28 Approval of amendments to agreements.

An amendment, modification or supplement to an agreement entered into pursuant to the regulations in this part, whether the agreement was approved prior to or after the effective date of these regulations, must be approved in writing by all parties prior to being submitted for approval to the Secretary. The Secretary may approve an amendment, modification, or supplement if it is determined that the agreement, as modified, meets the criteria for approval set forth in § 225.22. All amendments, modifications, or supplements will be reviewed against the criteria set forth in § 225.22 to determine if any or all of the provisions in this section apply.

§ 225.29 Corporate qualifications and requests for information.

(a) The signing in a representative capacity of mineral agreements or assignments, bonds, or other instruments required by these regulations, constitutes certification that the individual signing (except a surety agent) is authorized to act in such a capacity. An agent for a surety shall furnish a power of attorney.

(b) An operator proposing to acquire an interest in a mineral agreement shall have on file with the Superintendent a statement showing:

(1) The State(s) in which the corporation is incorporated, and a notarized statement that the corporation is authorized to hold such interests in the State where the land described in the instrument is situated; and

(2) A notarized statement that it has power to conduct all business and operations as described in the minerals agreement.

(c) Either before or after the approval of a mineral agreement, assignment, or bond, the Secretary may call for any reasonable additional information

necessary to protect the interests of the Indian mineral owners.

§ 225.30 Bonds.

Bonding shall be in an amount and form prescribed by the Secretary, unless specified in the agreement. If a bond is required, the provisions of 25 CFR 211.24 may be used to set the amount.

§ 225.31 Manner of payments.

Unless specified otherwise in the agreement, all payments due for royalties, bonuses, rentals and other payments under a minerals agreement shall be made in accordance with the provisions of 25 CFR part 211 and 30 CFR chapter II where applicable or as mutually agreed to by the Secretary and the Indian mineral owner.

§ 225.32 Permission to start operations.

(a) No exploration, drilling, or mining operations are permitted on any Indian trust or restricted lands prior to the approval of the mineral agreement by the Secretary pursuant to the regulations in this part.

(b) Applicable permits in accordance with rules and regulations in title 43 CFR parts 3160, 3260, 3480, 3590, and Orders or Notice to Lessees (NTL) issued thereunder shall be required before actual operations are conducted on the agreement acreage. After such permission is secured, operations must be in accordance with all applicable operating rules and regulations promulgated by the Secretary of the Interior. Copies of applicable regulations may be secured from either the Authorized Officer or the Superintendent.

§ 225.33 Assignments.

An assignment of a mineral agreement, or any interest therein, shall not be valid without the approval of the Secretary and the Indian mineral owners if approval of the Indian mineral owner is required in the agreement. The assignee must be qualified to hold such an agreement and shall furnish a satisfactory bond conditioned on the faithful performance of the covenants and conditions thereof as stipulated in the agreement. A fully executed copy of the assignment shall be filed with the Secretary immediately after the execution by all parties. The Secretary may permit the release of any bonds executed by the assignor upon execution of satisfactory bonds by the assignee, and a determination that the assignor has satisfied all accrued obligations.

§ 225.34 Unitization and communitization agreements, and well spacing requirements.

The provisions of § 211.28 of this chapter are applicable to agreements under this part unless specified in the agreement.

§ 225.35 Inspection of premises; books and accounts.

(a) Operators shall allow Indian mineral owners or their authorized representatives or any authorized representatives of the Secretary to enter all parts of the agreement area for the purpose of inspection. Operators shall keep a full and correct account of all operations and make reports thereof, as required by the agreement and applicable regulations. Books and records shall be available during regular business hours.

(b) Operators will provide records to the Minerals Management Service (MMS) in accordance with MMS regulations and guidelines. All records pertaining to a mineral agreement shall be maintained by an operator in accordance with 30 CFR part 212.

(c) Operators will provide records to the Authorized Officer in accordance with BLM regulations and guidelines.

§ 225.36 Agreement cancellation; notice of noncompliance.

(a) If the Assistant Secretary determines that an operator has failed to comply with the regulations in this part, other applicable laws or regulations, the terms of the agreement, the requirements of an approved exploration, drilling or mining plan, Secretarial orders, or the orders of the Authorized Officer or the MMS, he/she may:

(1) Issue a notice of noncompliance if the operator has failed to comply with a requirement over which the Assistant Secretary has administrative authority and responsibility; or

(2) Serve a notice of proposed cancellation of the agreement for any failure to comply. The notice of proposed cancellation shall set forth the reasons why cancellation is proposed.

(b) The notice of noncompliance shall specify in what respect the operator has failed to comply with the requirements referenced in paragraph (a) of this section, and shall specify what actions, if any, must be taken to correct the noncompliance.

(c) The notice of proposed cancellation or noncompliance shall be served upon the operator by delivery in person or by certified mail to the permittee or lessee at its last known address. The date of service for a notice sent by certified mail shall be the date of receipt or 5 days after the date of mailing to the permittee's last known address, whichever is earlier.

(d) The operator shall have 20 days (or such longer time as specified in the notice) from the date that the notice of proposed cancellation or noncompliance is served to respond, in writing, to the BIA official actually issuing the notice.

(e) If an operator fails to take any action prescribed in the notice of proposed cancellation, fails to file a timely written response to the notice, or files a written response which does not, in the discretion of the Assistant Secretary, adequately justify its failure to comply, then the Assistant Secretary may cancel the agreement, specifying the basis for the cancellation.

(f) This section does not limit any other remedies of the Indian mineral owner as set forth in the agreement.

(g) Nothing in this section is intended to limit the authority of the Authorized Officer or the MMS Official to take any enforcement action authorized pursuant to statute or regulation.

(h) The Authorized Officer, the MMS Official, and the Superintendent should consult with one another before taking any enforcement actions.

(i) If an order of cessation or agreement cancellation issued pursuant to this section is issued by a subordinate of the Assistant Secretary, it may be appealed under 25 CFR part 2. If the order is issued by the Assistant Secretary, and not one of his/her subordinates, it is the final order of the Department.

§ 225.37 Civil penalties.

The provisions of § 211.55 of this chapter, or as hereafter amended, are applicable to this part.

§ 225.38 Appeals.

Appeals from decisions of Bureau of Indian Affairs Officers under this part may be taken pursuant to 25 CFR part 2.

§ 225.39 Fees.

Unless otherwise authorized by the Secretary, each agreement, or assignment or surrender thereof, shall be accompanied by a filing fee of $75.00.

§ 225.40 Government employees cannot acquire agreements.

Government employees are regulated by the provisions of 25 CFR part 140 and 43 CFR, part 20 pertaining to conflicts of interest and ownership of an interest in trust land.

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

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Thursday
November 21, 1991

Part III

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 3

Assignment of Agency Component for Review of Premarket Applications; Final Rule and Notice

21 CFR Part 5

Delegations of Authority and Organization; Office of the Commissioner and Center for Biologics Evaluation and Research, et al.; Final Rules

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 3

[Docket No. 91N-0257]

Assignment of Agency Component for Review of Premarket Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is promulgating a new regulation to describe how the agency will determine which component within FDA will have primary jurisdiction for the premarket review and regulation of: (1) A combination drug, device, or biologic product or (2) any drug, device, or biologic product where the center with primary jurisdiction is unclear or in dispute. This rule describes how to identify the agency's assigned review component which will, in most cases, eliminate the need for a sponsor to obtain approval from more than one FDA component for a combination product.

DATES: These regulations are effective November 21, 1991. Submit written comments by December 23, 1991.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Edwin V. Dutra, Jr., Office of the Commissioner (HF-7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1306.

SUPPLEMENTARY INFORMATION:

I. Background

For many years, the agency has been confronted with questions as to which center within FDA should regulate a particular product. For example, in the early 1970's, the agency had to determine where radiopharmaceuticals, radiobiologicals, and in vitro diagnostic products would be regulated. Over time, other products such as medicated wound dressings, bone cement containing an antibiotic, and dental composites with fluoride have raised similar jurisdictional concerns both inside and outside of FDA. The development of new technologies and biotechnological products presents continuing administrative and jurisdictional challenges to the agency.

As the types of products submitted for review have expanded and jurisdictional issues multiplied, FDA has dealt with these questions in a variety of ways. In some cases, review responsibility for the regulation of certain very similar products has been divided or shared between centers. Although these and other solutions developed by the agency answered some jurisdictional questions, others were left unanswered.

II. The Safe Medical Devices Act of 1990

The Safe Medical Devices Act (SMDA) of 1990 (Pub. L. 101-629) has the general purpose of improving the regulation of medical devices. Section 16 of the SMDA, however, addresses product jurisdiction questions involving "combination products," i.e., products containing a combination of drugs, devices, and biological products.

Specifically, this section of the new law requires that the agency designate a component of FDA to have primary jurisdiction for the premarket review and regulation of a product that constitutes a combination of a drug, device, or biological product. The designation is to be made based upon a determination of the "primary mode of action" of the combination product. The new provision explicitly states, however, that FDA can use any agency resources necessary to ensure adequate safety, effectiveness, or (in the case of medical devices) substantial equivalence reviews for the products involved. Section 16 of the SMDA also modifies the definitions of "drug" and "device,"and requires the agency to publish regulations implementing this section within a year, or by November 29, 1991.

As part of the process of developing these regulations, the FDA ombudsman chaired a public hearing on September 6, 1991 (announced in the **Federal Register** of July 12, 1991 (56 FR 31951)). The hearing panel was comprised of Deputy Directors from the Center for Biologics Evaluation and Research, the Center for Devices and Radiological Health, and the Center for Drug Evaluation and Research. The purpose of the hearing was to give interested persons the opportunity to provide comments and suggestions about the content and scope of this regulation. More than 15 people made oral presentations and over 250 persons attended the hearing. The agency also solicited written comments and suggestions, which were accepted from July 12, 1991 through September 13, 1991 (Docket No. 91N-0257). All comments from the hearing or received in writing have been considered.

III. Highlights of the Final Regulation

This final regulation describes how the agency will determine which component within FDA will have the primary jurisdiction for the premarket review and regulation of a combination product comprised of drugs, devices, or biologics. This regulation, however, is not limited in its scope to the combination products specified in the law. To enhance the efficiency of agency operations, it also applies to any drug, device, or biological product where the jurisdiction is unclear or in dispute. This regulation, however, does not apply to foods, veterinary products, or cosmetics. The agency is aware that such products may present jurisdictional issues, and will further consider whether they should subsequently be included in this rule.

The regulation specifies how a sponsor can obtain an agency determination early in the process, before any required filing, which agency component will have primary jurisdiction for the premarket review and regulation of the product. The regulation also establishes a "product jurisdiction officer" within FDA's Office of the Commissioner to oversee these procedures and processes. The FDA Ombudsman is the Product Jurisdiction Officer.

A. Scope

This regulation applies to two categories: First, any product that constitutes a combination of a drug, device, or biological product under section 503(g)(1) of the Federal Food, Drug and Cosmetic Act (the act) as amended by section 16 of the Safe Medical Devices Act of 1990 (21 U.S.C. 353(g)(1)); and, secondly, any drug, device or biological product where the agency component with primary jurisdiction for the premarket review and regulation is unclear or in dispute.

As set forth in § 3.2(e) of this final rule, the term combination product means a product comprised of two or more different regulated entities, e.g., drug, device, or biologic (for example, a syringe prefilled with a drug); or two or more separate products packaged together as one unit (for example, a lumbar puncture kit containing drapes, needles, tubes, a syringe, a local anesthetic and a topical antiseptic). A combination product is also a product that is intended for use only with an approved product where both are required to achieve the intended use, indication, or effect, and the labeling of the approved product needs to be changed to reflect this use (for example

a device to aerosolize medication that works only with a specific drug that when given as an aerosol must be used with this device and that, as a consequence, is labeled for this route of administration using only this device). Finally, a combination product is any investigational product that is intended to be used only with another investigational product where both are required to achieve the intended use, indication, or effect, for example, a novel catecholamine administered by a computerized pump that is to be developed as a pharmacological cardiac stress test.

Thus, the definition of a combination product is intended to exclude most concomitant use of drugs, devices, and biological products. The definition also excludes products comprised exclusively of two or more drugs, two or more devices, or two or more biologicals.

B. Contents of the Regulation

Section 3.4(a) of this rule implements the statutory mandate that the designation of the agency component with primary jurisdiction shall be based on the primary mode of action of the product at issue. Section 3.4(b) of this rule provides that the designation of an agency component does not preclude consultations with other agency components and, where appropriate, does not preclude requiring the approval of a second application, ordinarily by the lead center. In addition, where the agency finds it is necessary, the agency reserves the option to require separate applications to be approved by separate agency components. FDA recognizes that requiring the approval of a second agency component would represent the exception rather than the rule and, in those instances, the reviews will be coordinated to the greatest extent possible.

Section 3.5 of this rule describes how to identify the designated agency component and discusses the intercenter agreements which allocate among the centers primary responsibility for certain products or categories of products. Section 3.6 of this rule identifies a product jurisdiction officer with whom sponsors may file a request for designation of the agency component with primary jurisdiction. Section 3.7 of this rule specifies to whom and when to make a request, and the information to be set forth in the request for designation, including the sponsor's recommendation as to which center should have primary jurisdiction.

Under § 3.8 of this rule, the procedures and time periods applicable to FDA actions on requests for designation are set forth, including the procedures to be used if a sponsor disagrees with a designation. Section 3.9 of this rule specifies that once a designation has been made, it can be modified with the written consent of the sponsor or, where necessary, without the sponsor's consent to protect the public health or for other compelling reasons. Section 3.10 of this rule provides that the statutory and regulatory time periods for review of premarket submissions and marketing approval applications is stayed by a filing with or review by the product jurisdiction officer.

This regulation has prospective applicability only. Thus, any marketing application (biologics product license application, premarket approval application, or new drug application), pending on or before the effective date of this regulation is not subject to this regulation. A sponsor of a pending marketing application who wants to use the new procedures will have to withdraw its application and resubmit it. The agency may elect to shift responsibility for investigational products consistent with this rule and the other documents discussed below in section III.D. of this preamble.

C. Authority for This Regulation

This rule provides an administrative mechanism to determine which agency component has responsibility for the review of an application. The agency determined that this is "a matter relating to agency management" and a rule of "agency organization, procedure, or practice" and, as such, it is exempt from notice and comment under the Administrative Procedure Act (5 U.S.C. 553 (a)(2) and (b)(A)). The Commissioner also finds good cause under 5 U.S.C. 553(b)(B) and 21 CFR 10.40(e) to forgo notice and comment as it would be unnecessary and contrary to the public interest to delay implementation of this rule. As provided in FDA's administrative practices and procedures regulation (21 CFR 10.40(e)), FDA is providing an opportunity for public comment on whether the regulation should be modified or revoked.

D. Other Documents

In this issue of the **Federal Register** the agency is also publishing a notice of availability of guidance documents that are entitled "intercenter agreements." These three guidance documents specify the designated agency component for certain products and categories of products. In addition, this issue contains regulations that, for the three centers involved with this rule, amend 21 CFR part 5 to vest in each center the approval authority of the other two centers, and to delegate authority under section 503(g) of the act concerning combination products from the Commissioner to the product jurisdiction officer.

IV. Paperwork Reduction Analysis

This rule does not add any information collection requirements to the premarket submissions which are already required for applications affecting drugs, devices, and biologic products. Although the rule requires the submission of this information earlier in the process, the information submitted under this rule by an applicant will be added to the applicant's premarket submission and will not need to be resubmitted at a later time.

V. Environmental Impact Statement

The agency has determined under 21 CFR 25.24(a)(8), that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Economic Assessment

In accordance with Executive Order 12291, FDA analyzed the potential economic effects of this rule. The agency has determined that the rule is not a major rule as defined by the Order. The agency has not received any information or comments that would alter its determination.

VII. Comments

Interested persons may, on or before December 23, 1991, submit written comments regarding this rule to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 3

Medical devices, Drugs, Biologics, Antibiotics, Authority delegations, Administrative practice and procedure.

Therefore, under the Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 3 is added as follows:

PART 3—PRODUCT JURISDICTION

Subpart A—Assignment of Agency Component for Review of Premarket Applications

Subpart B—[Reserved]

Authority: Secs. 201, 501, 502, 503, 505, 506, 507, 510, 513–516, 518–520, 530–542, 701(a), 706, 801, 903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 356, 357, 360, 360c–360f, 360h–360j, 360gg–360ss, 371(a), 376, 381, 394); secs. 215, 351 of the Public Health Service Act (42 U.S.C. 216, 262).

Subpart A—Assignment of Agency Component for Review of Premarket Applications

§ 3.1 Purpose.

This regulation relates to agency management and organization and has two purposes. The first is to implement section 503(g) of the act, as added by section 16 of the Safe Medical Devices Act of 1990 (Pub. L. 101–629), by specifying how FDA will determine the organizational component within FDA designated to have primary jurisdiction for the premarket review and regulation of products that are comprised of any combination of a drug and a device; a device and a biological; a biological and a drug; or a drug, a device and a biological. This determination will eliminate, in most cases, the need to receive approvals from more than one FDA component for such combination products. The second purpose of this regulation is to enhance the efficiency of agency management and operations by providing procedures for determining which agency component will have primary jurisdiction for any drug, device, or biological product where such jurisdiction is unclear or in dispute. Nothing in this section prevents FDA from using any agency resources it deems necessary to ensure adequate review of the safety and effectiveness of any product, or the substantial equivalence of any device to a predicate device.

§ 3.2 Definitions.

For the purpose of this part:

(a) *Act* means the Federal Food, Drug, and Cosmetic Act.

(b) *Agency component* means the Center for Biologics Evaluation and Research, the Center for Devices and Radiological Health, or the Center for Drug Evaluation and Research.

(c) *Applicant* means any person who submits or plans to submit an application to the Food and Drug Administration for premarket review. For purposes of this section, the terms "sponsor" and "applicant" have the same meaning.

(d) *Biological product* has the meaning given the term in section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)).

(e) *Combination product* includes:

(1) A product comprised of two or more regulated components, i.e., drug/device, biologic/device, drug/biologic, or drug/device/biologic, that are physically, chemically, or otherwise combined or mixed and produced as a single entity;

(2) Two or more separate products packaged together in a single package or as a unit and comprised of drug and device products, device and biological products, or biological and drug products;

(3) A drug, device, or biological product packaged separately that according to its investigational plan or proposed labeling is intended for use only with an approved individually specified drug, device, or biological product where both are required to achieve the intended use, indication, or effect and where upon approval of the proposed product the labeling of the approved product would need to be changed, e.g., to reflect a change in intended use, dosage form, strength, route of administration, or significant change in dose; or

(4) Any investigational drug, device, or biological product packaged separately that according to its proposed labeling is for use only with another individually specified investigational drug, device, or biological product where both are required to achieve the intended use, indication, or effect.

(f) *Device* has the meaning given the term in section 201(h) of the act.

(g) *Drug* has the meaning given the term in section 201(g)(1) of the act.

(h) *FDA* means Food and Drug Administration.

(i) *Letter of designation* means the written notice issued by the product jurisdiction officer specifying the agency component with primary jurisdiction for a combination product.

(j) *Letter of request* means an applicant's written submission to the product jurisdiction officer seeking the designation of the agency component with primary jurisdiction.

(k) *Premarket review* includes the examination of data and information in an application for premarket review described in sections 505, 507, 510(k), 513(f), 515, or 520(g) or 520(l) of the act or section 351 of the Public Health Service Act of data and information contained in any investigational new drug (IND) application, investigational device exemption (IDE), new drug application (NDA), antibiotic application, biological product or establishment license application, device premarket notification, device reclassification petition, and premarket approval application (PMA).

(l) *Product* means any article that contains any drug as defined in section 201(g)(1) of the act; any device as defined in section 201(h) of the act; or any biologic as defined in section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)).

(m) *Product jurisdiction officer* is the person or persons responsible for designating the component of FDA with primary jurisdiction for the premarket review and regulation of a combination product or any product requiring a jurisdictional designation under this part.

(n) *Sponsor* means "applicant" (see § 3.2(c)).

§ 3.3 Scope.

This section applies to: (a) Any combination product, or

(b) Any product where the agency component with primary jurisdiction is unclear or in dispute.

§ 3.4 Designated agency component.

(a) To designate the agency component with primary jurisdiction for the premarket review and regulation of a combination product, the agency shall determine the primary mode of action of the product. Where the primary mode of action is that of:

(1) A drug (other than a biological product), the agency component charged with premarket review of drugs shall have primary jurisdiction;

(2) A device, the agency component charged with premarket review of devices shall have primary jurisdiction;

(3) A biological product, the agency component charged with premarket review of biological products shall have primary jurisdiction.

(b) The designation of one agency component as having primary jurisdiction for the premarket review and regulation of a combination product does not preclude consultations by that component with other agency

components or, in appropriate cases, the requirement by FDA of separate applications.

§ 3.5 Procedures for identifying the designated agency component.

(a)(1) The Center for Biologics Evaluation and Research, the Center for Devices and Radiological Health, and the Center for Drug Evaluation and Research have entered into agreements clarifying product jurisdictional issues. These guidance documents are on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, and are entitled "Intercenter Agreement Between the Center for Drug Evaluation and Research and the Center for Devices and Radiological Health;" "Intercenter Agreement Between the Center for Devices and Radiological Health and the Center for Biologics Evaluation and Research;" "Intercenter Agreement Between the Center for Drug Evaluation and Research and the Center for Biologics Evaluation and Research." The availability of any amendments to these intercenter agreements will be announced by **Federal Register** notice.

(2) These guidance documents describe the allocation of responsibility for categories of products or specific products. These intercenter agreements, and any amendments thereto, are nonbinding determinations designed to provide useful guidance to the public.

(3) The sponsor of a premarket application or required investigational filing for a combination or other product covered by these guidance documents may contact the designated agency component identified in the intercenter agreement before submitting an application of premarket review or to confirm coverage and to discuss the application process.

(b) For a combination product not covered by a guidance document or for a product where the agency component with primary jurisdiction is unclear or in dispute, the sponsor of an application for premarket review should follow the procedures set forth in § 3.7 to request a designation of the agency component with primary jurisdiction before submitting the application.

§ 3.6 Product jurisdiction officer.

FDA Ombudsman (HF-7), Food and Drug Administration, rm. 14-84, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1306, is the designated product jurisdiction officer.

§ 3.7 Request for designation.

(a) Who should file: the sponsor of:

(1) Any combination product the sponsor believes is not covered by an intercenter agreement; or

(2) Any product where the agency component with primary jurisdiction is unclear or in dispute.

(b) When to file: a sponsor should file a request for designation before filing any application for premarket review, whether an application for marketing approval or a required investigational notice. Sponsors are encouraged to file a request for designation as soon as there is sufficient information for the agency to make a determination.

(c) What to file: an original and two copies of the request for designation must be filed. The request for designation must not exceed 15 pages, including attachments, and must set forth:

(1) The identity of the sponsor, including company name and address, establishment registration number, company contact person and telephone number.

(2) A description of the product, including:

(i) Classification, name of the product and all component products, if applicable;

(ii) Common, generic, or usual name of the product and all component products;

(iii) Proprietary name of the product;

(iv) Identification of any component of the product that already has received premarket approval, is marketed as not being subject to premarket approval, or has received an investigational exemption, the identity of the sponsors, and the status of any discussions or agreements between the sponsors regarding the use of this product as a component of a new combination product.

(v) Chemical, physical, or biological composition;

(vi) Status and brief reports of the results of developmental work, including animal testing;

(vii) Description of the manufacturing processes, including the sources of all components;

(viii) Proposed use or indications;

(ix) Description of all known modes of action, the sponsor's identification of the primary mode of action, and the basis for that determination;

(x) Schedule and duration of use;

(xi) Dose and route of administration of drug or biologic;

(xii) Description of related products, including the regulatory status of those related products; and

(xiii) Any other relevant information.

(3) The sponsor's recommendation as to which agency component should have primary jurisdiction, with accompanying statement of reasons.

(d) Where to file: all communications pursuant to this subpart shall be addressed to the attention of the product jurisdiction officer. Such a request, in its mailing cover should be plainly marked "Request for Designation."

§ 3.8 Letter of designation.

(a) Each request for designation will be reviewed for completeness within 5 working days of receipt. Any request for designation determined to be incomplete will be returned to the applicant with a request for the missing information. The sponsor of an accepted request for designation will be notified of the filing date.

(b) Within 60 days of the filing date of a request for designation, the product jurisdiction officer will issue a letter of designation to the sponsor, with copies to the centers, specifying the agency component designated to have primary jurisdiction for the premarket review and regulation of the product at issue, and any consulting agency components. The product jurisdiction officer may request a meeting with the sponsor during the review period to discuss the request for designation. If the product jurisdiction officer has not issued a letter of designation within 60 days of the filing date of a request for designation, the sponsor's recommendation of the center with primary jurisdiction, in accordance with § 3.7(c)(3), shall become the designated agency component.

(c) Request for reconsideration by sponsor: If the sponsor disagrees with the designation, it may request the product jurisdiction officer to reconsider the decision by filing, within 15 days of receipt of the letter of designation, a written request for reconsideration not exceeding 5 pages. No new information may be included in a request for reconsideration. The product jurisdiction officer shall review and act on the request in writing within 15 days of its receipt.

§ 3.9 Effect of letter of designation.

(a) The letter of designation constitutes an agency determination tha is subject to change only as provided in paragraph (b) of this section.

(b) The product jurisdiction officer may change the designated agency component with the written consent of the sponsor, or without its consent to protect the public health or for other compelling reasons. A sponsor shall be given 30 days written notice of any proposed nonconsensual change in designated agency component. The sponsor may request an additional 30 days to submit written objections, not t

exceed 15 pages, to the proposed change, and shall be granted, upon request, a timely meeting with the product jurisdiction officer and appropriate center officials. Within 30 days of receipt of the sponsor's written objections, the product jurisdiction officer shall issue to the sponsor, with copies to appropriate center officials, a written determination setting forth a statement of reasons for the proposed change in designated agency component. A nonconsensual change in the designated agency component requires the concurrence of the Deputy Commissioner for Operations or the Deputy Commissioner for Policy.

§ 3.10 Stay of review time.

Any filing with or review by the product jurisdiction officer stays the review clock or other established time periods for agency action for an application for marketing approval or required investigational notice during the pendency of the review by the product jurisdiction officer.

Subpart B—[Reserved]

Dated: November 14, 1991.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 91-27869 Filed 11-20-91; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 5

Delegations of Authority and Organization; Office of the Commissioner

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority to redelegate the Commissioner's authority to designate primary jurisdiction over the premarket review and regulation of combination products under section 503(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(g)(1)) a provision of the Safe Medical Devices Act of 1990 to the ombudsman as the product jurisdiction officer, Office of the Commissioner. Under a regulation published elsewhere in this issue of the **Federal Register**, the FDA ombudsman is the designated product jurisdiction officer.

EFFECTIVE DATE: November 21, 1991.

FOR FURTHER INFORMATION CONTACT: Ellen Rawlings, Division of Management Systems and Policy (HFA-300), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4976.

SUPPLEMENTARY INFORMATION: In conjunction with section 503(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(g)(1)), a provision of section 16 of the Safe Medical Devices Act of 1990 (Pub. L. 101-629), and implementing regulations to be found at 21 CFR part 3 (created in a companion document also publishing in this issue of the **Federal Register**), FDA is amending the delegations of authority under 21 CFR part 5 to add new § 5.32. This section gives the FDA ombudsman as the product jurisdiction officer authority to determine whether the Center for Biologics Evaluation and Research (CBER), the Center for Devices and Radiological Health (CDRH), or the Center for Drug Evaluation and Research (CDER) has primary responsibility for premarket review and regulation of a product that constitutes a combination of a drug, device, or biological product under section 503(g)(1) of the Federal, Food, Drug, and Cosmetic Act (the act) or that is a drug, device, or biologic product where the center with primary jurisdiction is unclear or in dispute.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

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

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR part 5 continues to read as follows:

Authority: 5 U.S.C. 504, 552, App. 2; 7 U.S.C. 2271; 15 U.S.C. 638, 1261-1282, 3701-3711a; secs. 2-12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451-1461); 21 U.S.C. 41-50, 61-63, 141-149, 467f, 679(b), 801-886, 1031-1309; secs. 201-903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321-394); 35 U.S.C. 156; secs. 301, 302, 303, 307, 310, 311, 351, 352, 354-360F, 361, 362, 1701-1706, 2101-2672 of the Public Health Service Act (42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 263b-263n, 264, 265, 300u-300u-5, 300aa-1-300ff); 42 U.S.C. 1395y, 3246b, 4332, 4831(a), 10007-10008; E.O. 11490, 11921, and 12591.

2. New § 5.32 is added to Subpart B to read as follows:

§ 5.32 Authority relating to determination of product primary jurisdiction.

The FDA ombudsman as product jurisdiction officer is authorized to determine whether the Center for Biologics Evaluation and Research (CBER), the Center for Devices and Radiological Health (CDRH), or the Center for Drug Evaluation and Research (CDER) has primary responsibility for premarket review and regulation of a product that constitutes a combination of a drug, device, or biological product under section 503(g)(1) of the Federal Food, Drug, and Cosmetic Act or that is a drug, device or biologic product where the center with primary jurisdiction is unclear or in dispute.

Dated: November 14, 1991.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 91-27870 Filed 11-20-91; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 5

Delegations of Authority and Organization; Center for Biologics Evaluation and Research, Center for Devices and Radiological Health, and Center for Drug Evaluation and Research

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority relating to premarket approval of products that are or contain a biologic, a device, or a drug. The amendment grants directors, deputy directors, and certain other supervisory personnel in the Center for Biologics Evaluation and Research (CBER), the Center for Devices and Radiological Health (CDRH), and the Center for Drug Evaluation and Research (CDER) reciprocal premarket approval authority to approve such products.

EFFECTIVE DATE: November 21, 1991.

FOR FURTHER INFORMATION CONTACT: Ellen Rawlings, Division of Management Systems and Policy (HFA-300), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4976.

SUPPLEMENTARY INFORMATION: This delegation of authority will assist FDA in implementing section 503(g)(1) of the Federal Food, Drug, and Cosmetic Act

(the act), (21 U.S.C. 353(g)(1)), which was added to the act by section 16 of the Safe Medical Devices Act of 1990. Implementing regulations, to be codified at 21 CFR part 3, are published elsewhere in this issue of the Federal Register.

FDA is amending the delegations of authority under § 5.20 (21 CFR 5.20), the general redelegations of authority from the Commissioner of Food and Drugs to other FDA officers, to add new § 5.33. This section gives Directors, Deputy Directors, and other designated supervisory personnel of CBER, CDRH, and CDER authority to approve any product containing a biologic, a device, or a drug. Thus, specified officials in CDER who currently have authority to approve new drug applications have the additional authority to approve a device or biologic; specified officials in CDRH who currently have authority to approve medical device premarket approval applications have the additional authority to approve products that are or contain a drug or a biologic; and specified official in CBER who currently have the additional authority to approve license applications have the additional authority to approve products that are or contain a drug or a device. This new authority should help to expedite the product approval process in each center.

Further redelegation of the authority is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

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

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR part 5 continues to read as follows:

Authority: 5 U.S.C. 504, 552, App. 2; 7 U.S.C. 2271; 15 U.S.C. 638, 1261–1282, 3701–3711a; secs. 2–12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451–1461); 21 U.S.C. 41–50, 61–63, 141–149, 467f, 679(b), 801–886, 1031–1309; secs. 201–903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321–394); 35 U.S.C. 156; secs. 301, 302, 303, 307, 310, 311, 351, 352, 361, 362, 530–542, 1701–1706, 2101–2672 of the Public Health Service Act (42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 263b–263n, 264, 265, 300u–300u–5, 300aa–1–300ff); 42 U.S.C. 1395y, 3246b, 4332, 4831(a), 10007–10008; E.O. 11490, 11921, and 12591.

2. New § 5.33 is added to subpart B to read as follows:

§ 5.33 Premarket approval of a product that is or contains a biologic, a device, or a drug.

For a product that is or contains a biologic, a device, or a drug, the following officials in the Center for Biologics Evaluation and Research, Center for Devices and Radiological Health, or Center for Drug Evaluation and Research who currently hold delegated premarket approval authority for biologics, devices, or drugs, respectively, are hereby delegated all the authorities necessary for premarket approval of any product that is a biologic, a device, or a drug, or any combination of two or more of these products:

(a) The Director and Deputy Director, Center for Biologics Evaluation and Research (CBER) and the Director, Office of Biological Product Review, CBER.

(b) The Director and Deputy Director, Center for Devices and Radiological Health (CDRH) and the Director, Office of Device Evaluation, CDRH.

(c) The Director and Deputy Director, Center for Drug Evaluation and Research (CDER); the Director, Pilot Drug Evaluation Staff, CDER; and the Directors of the Offices of Drug Evaluation I and Drug Evaluation II, CDER.

Dated: November 14, 1991

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 91–27871 Filed 11–20–91; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 91D-0445]

Assignment of Agency Component for Review of Premarket Applications; Guidance Documents Entitled Intercenter Agreements for Biologic, Device and Drug Products; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of three guidance documents: (1) The Intercenter Agreement between the Center for Drug Evaluation and Research and the Center for Biologics Evaluation and Research; (2) the Intercenter Agreement between the Center for Devices and Radiological Health and the Center for Biologics Evaluation and Research; and (3) the Intercenter Agreement between Center for Devices and Radiological Health and Center for Drug Evaluation and Research. These intercenter agreements describe the allocation of responsibility, by center, for categories of products or specific products which are a biologic, a device, or a drug. These intercenter agreements also describe mechanisms for dispute resolution and logistics for collaborative reviews and refer to a new regulation issued by FDA to implement section 503(g)(1) of the Federal Food, Drug and Cosmetic Act, as amended by section 16 of the Safe Medical Devices Act of 1990 (SMDA), regarding the review and regulation of combination products.

ADDRESSES: Submit written requests for single copies of the intercenter agreements to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857. Send two self-addressed adhesive labels to assist that office in processing your requests. Requests should be identified with the docket number found in brackets in the heading of this document. Copies of the intercenter agreements and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Copies may also be obtained from the following persons:

1. Jack W. Martin, Office of Small Business, Scientific and Trade Affairs (HF-51), Food and Drug Administration, rm. 15-61, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6776, FAX 301-443-5153;

2. Mark A. Elengold, Center for Biologics Evaluation and Research (HFB-140), Food and Drug Administration, rm. 109, 8800 Rockville Pike, Bethesda, MD 20892, 301-295-8228;

3. Patrick J. Savino, Center for Drug Evaluation and Research, Executive Secretariat Staff (HFD-8), Food and Drug Administration, rm. 151, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8012;

4. Leighton W. Hansel, Center for Devices and Radiological Health, Division of Product Surveillance (HFZ-340), Food and Drug Administration, rm. 380, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1311, FAX 301-427-1967; or

5. Connie Halkovich, Office of the Ombudsman (HF-7), Food and Drug Administration, rm. 14-84, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1306, FAX 301-227-6807.

FOR FURTHER INFORMATION CONTACT: Edwin V. Dutra, Jr., Office of the Commissioner (HF-7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1306.

SUPPLEMENTARY INFORMATION: The intercenter agreements are guidance documents, which are nonbinding determinations designed to provide useful guidance to the public.

The intercenter agreement between the Centers for Drug Evaluation and Research and Biologics Evaluation and Research outlines a working agreement between the centers. This working agreement assigns jurisdiction for the regulation of drug and biological products and describes those product characteristics or medical indications that require collaborative review by the two centers. The agreement also contains mechanisms for dispute resolution and logistics of collaborative reviews, including the use of advisory committees.

The intercenter agreement between the Centers for Biologics Evaluation and Research and Devices and Radiological Health is an update of an existing agreement first developed in 1982. The 1982 agreement identified the responsibilities of each center for medical device activities. This updated agreement continues to identify the responsibilities of each center for medical device activities but, due to the major organizational changes within FDA over the years and due to major advances in medical device technology, the agreement includes: (1) Medical devices that were not specified in the earlier agreement, and (2) developing medical devices and device technologies for which there were no previous jurisdictional guidance documents. This agreement supersedes all prior agreements and outlines the working relationship existing between the two centers for certain categories of medical devices or specified medical devices.

The intercenter agreement between the Centers for Drug Evaluation and Research and Devices and Radiological Health represents a compilation and update of several ad hoc agreements between the two centers concerning the status of products, i.e., whether a particular product was regulated as a drug or a device. This agreement identifies those products subject to regulation as a device, those products subject to regulation as a drug, and how some combination products will be regulated. It also outlines working relationships between the two centers. This agreement supersedes all previous agreements and decisions about jurisdictional matters involving drugs and devices except for the transitional device notice published in the **Federal Register** of December 16, 1977 (42 FR 63472).

For products not included in the intercenter agreements, the process for determining the center with primary jurisdiction is set forth in a new regulation, published elsewhere in this issue of the **Federal Register**, required by the SMDA. Section 16 of the SMDA requires that the agency designate a component of FDA to have primary jurisdiction for the premarket review and regulation of products containing a combination of two or more of the following: A drug, a device, or a biological product.

The new regulation implements section 16 of the SMDA and, to further enhance the efficiency of agency operations, also covers any drug, device, or biologic product where jurisdiction is unclear or in dispute. At the present time, this new regulation does not apply to other products regulated by FDA such as foods, veterinary products, or cosmetics.

The agency recognizes that changes to the intercenter agreements may occur in the future. When changes are made, copies of the revised intercenter agreements will be placed on public display in the Dockets Management Branch (address above) and a notice of availability will be published in the **Federal Register.**

Dated: November 14, 1991.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 91-27872 Filed 11-20-91; 8:45 am]

BILLING CODE 4160-01-M

federal register

Thursday
November 21, 1991

Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Parts 203, 213, and 234

Single Family Mortgage Insurance Program, Mortgage Assumability and Release Requirements; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Parts 203, 213, and 234

[Docket No. R-91-1557; FR-2867-P-01]

RIN 2502-AF07

Single Family Mortgage Insurance Program, Mortgage Assumability and Release Requirements

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: Section 203(r) of the National Housing Act (the Act) requires HUD to take appropriate actions to reduce losses under the single family mortgage insurance programs, including three specific actions. These are: (1) An annual review of the rate of early serious defaults and claims in accordance with section 533 of the Act; (2) A requirement that only creditworthy persons may acquire ownership of property encumbered by an FHA-insured mortgage; and (3) To advise the original mortgagor of procedures for release from personal liability on a mortgage that is assumed. This proposed rule would cover most of the provisions of section 203(r) of the National Housing Act, and other related HUD/FHA policies currently stated in administrative issuances other than regulations. It would also set forth policy not currently in regulations on the subjects of assumability of insured single family mortgages and release of personal liability of selling mortgagors.

DATES: Comment Due Date: January 21, 1992.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Office of the General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Communications should refer to the above docket number and title.

A copy of each communication submitted will be available for public inspection and copying during regular business hours (7:30 a.m.–5:30 p.m. Eastern Time) at the above address.

As a convenience to commenters, the Rules Docket Clerk will accept brief public comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 708–4337. (This is not a toll-free number.) Only public comments of six or fewer total pages will be accepted via FAX transmittal. This limitation is necessary to assure reasonable access to the equipment. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Rules Docket Clerk ((202) 708–2084); TDD (202) 708–3259. (These are not toll-free numbers.)

FOR FURTHER INFORMATION CONTACT: John J. Coonts, Deputy Director, Office of Insured Single Family Housing, room 9266, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 708–3046; TDD (202) 708–4594. (These are not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

This proposed rule would set forth a number of related requirements, based on existing policy, relating to two main subjects: (1) The policy permitting free assumability of insured mortgages under the single family mortgage insurance programs, and exceptions to this policy, and (2) release of a mortgagor's personal liability on such a mortgage upon transfer of the property by the mortgagor. Most of the requirements are derived from section 203(r) of the National Housing Act or section 203(g) of the National Housing Act, as well as mortgagee letters, HUD handbooks, and various internal HUD memoranda implementing these sections or otherwise setting forth and describing current policy.

Section 203(r) generally requires HUD to take appropriate actions to reduce losses under the single family mortgage insurance programs. Three specific actions are required. The first, an annual review of the rate of early serious defaults and claims in accordance with section 533 of the National Housing Act, has been implemented as 24 CFR 203.8 through a final rule published on May 7, 1990, 55 FR 18869. The second action HUD must take is to require that only creditworthy persons shall acquire ownership of property encumbered by an FHA-insured mortgage. This requirement would be implemented through the proposed regulation as new § 203.512. That section would also restrict acquisition of property so encumbered as a secondary residence or by an investor, pursuant to section 203(g). The new requirement represents an exception to HUD's traditional policy against restraints on alienability of mortgaged property which restrict the assumability of insured mortgages. That traditional policy would be set forth in regulations for the first time in the proposed new §§ 203.41 and 234.66. Other policy exceptions, notably regarding the use of restrictions for affordable housing programs, are addressed in detail in those sections.

The third action required under section 203(r) is advice to the original mortgagor of procedures for release from personal liability on a mortgage which is assumed. This requirement would be implemented through the proposed new § 203.510. Section 203(r) also provides for release of a selling mortgagor in certain circumstances when 5 years have elapsed from the date a purchaser assumed the mortgage. This provision would also be implemented in the proposed new § 203.510. A more detailed section-by-section description of the proposed rule follows.

The changes made to subpart A of part 203 would be automatically incorporated by reference in the program's regulations for all single family mortgage insurance programs except part 206 (home equity conversion mortgagees) 213 (cooperative housing) and 234 (condominiums). Corresponding changes would be made to part 234. The changes made to subpart C of part 203 would be automatically incorporated for all programs except part 206. This proposed rule is not relevant for part 206 since home equity conversion mortgages insured under that part are never assumable (sale of the home requires repayment of the mortgage in full) and HUD requires evidence of good marketable title when the mortgage is originated rather than during insurance claims processing.

II. Proposed Rule

Section 203.41 and 234.66, Paragraph (a)

These key terms used in §§ 203.41 and 234.66 and relevant to mortgage assumability policies would be defined: "low- or moderate-income housing," "eligible governmental or non-profit program," "legal restrictions on conveyance," "tax-exempt bond financing," and "eligible nonprofit organization." For purposes of these sections, a home would be considered low- or moderate-income housing if it will be affordable (taking into account available financing) for mortgagors with an income not exceeding 115 percent to the median area income. That income level is the same one generally applicable to tax-exempt bond financing; it was also used in Mortgagee Letter 89-31 to identify low- or moderate-income persons for purposes of defining certain eligible nonprofit

organizations as eligible mortgagors under the revised section 203(g) of the National Housing Act. An eligible governmental or nonprofit program would mean a program designed to assist to purchase of low- or moderate-income housing which is operated pursuant to a program established by Federal law or operated by a State or local government or an eligible nonprofit organization.

Legal restrictions on conveyance generally would be prohibited by § 203.41(b). The phrase would be broadly defined as any provision, wherever contained, that attempts to cause a conveyance by the mortgagor to be void, voidable or the basis of contractual liability, to lead to termination of the mortgagor's property interest if a conveyance is attempted, to require third party consent to the conveyance, to limit the sales proceeds a selling mortgagor could retain, or to increase the mortgagor's obligations or the mortgagee's rights under the insured mortgage. The definition would be based primarily on the definition used in the common law on restraints against alienation as stated in the American Law Institute's Restatement of Property, Part IV, Section 404 (1944), and Restatement of Property 2d, Donative Transfers, Part II, §§ 3.1-3.3 (1983). The discussion in the Restatement volumes is relevant as a more thorough explanation of the kinds of restrictions that are addressed by the proposed rule. The definition is somewhat broader than the Restatement concept of the common law. Unlike the common law doctrine, HUD would also view restraints resulting from statute or regulations as covered by § 203.41. The definition would include provisions affecting the mortgagor-mortgagee relationship on the basis of a conveyance (such as a due-on-sale clause) since such provisions can have the practical effect of interfering with the mortgagor's ability to convey property. The definition would also extend to use restrictions requiring continued owner-occupancy and thus prohibiting rental. The acceptability and unacceptability of various legal restrictions on conveyance would be as indicated in this rule rather than the somewhat different common law grounds for distinguishing between valid and invalid restrictions on alienation.

Tax-exempt bond financing would be defined as financing through qualified mortgage bonds described in section 143 of the Internal Revenue Code of 1986. An eligible nonprofit organization for purposes of these sections would be given the same definition as in Mortgagee Letter 89-31.

Sections 203.41 and 234.66, Paragraph (b)

This provision would state a long-standing general policy of the HUD/FHA single family mortgage insurance programs favoring free alienability of property without restrictions so that the insured mortgage is freely assumable, with certain exceptions discussed below. The policy has never been directly stated in regulations, but HUD Handbook 4330.1 (Administration of Insured Home Mortgages) states in Paragraph 91: "Every borrower having a HUD-insured mortgage has the unequivocal right to dispose of his property as he sees fit with no restrictions of any kind imposed upon the assumptor * * *" For mortgages secured by leasehold interests, paragraph 6-32.A.(4) of HUD Handbook 4150.1 Rev. 1 (Valuation Analysis for Home Mortgage Insurance) prohibits restrictions on assignment of the lease, as does paragraph 3-1.a.(4) of HUD Handbook 4010.1 Chg. 10 (Definitions, Policy Statements and General Rulings).

This policy is similar to the common law doctrine that unreasonable restraints on alienation of property held in a fee simple interest are unenforceable. In some states the doctrine has been enacted as a statute, e.g., California Civil Code section 711, Georgia Code Ann. section 44-6-43, and North Dakota Cent. Code section 47-02-26. This rule would not supersede state law, and would apply to some restraints which might not be considered restraints on alienation under the law of the state in which a home is located, such as due-on-sale clauses, rights of first refusal, owner-occupancy requirements and governmental restrictions. To avoid confusion between this rule and state law on restraints on alienation of property, the rule would use the term "legal restrictions on conveyance" instead of referring to "restraints on alienation."

HUD's general policy set forth in this part of the rule would recognize that an important feature of true homeownership is the owner's ability to dispose freely of his or her home on terms agreed to by the owner, and to otherwise retain unfettered ownership. It also guards against the use of legal restrictions on conveyance as a means of perpetuating discrimination. The rule would also protect HUD by assuring that a mortgagor unable to make mortgage payments would have the legal ability to transfer the property to another mortgagor able to make the payments, thereby avoiding a mortgage default and possible insurance claim.

The rule would also be consistent with HUD claims regulations which generally require insurance claims to be based on good marketable title; either such title must be conveyed to HUD (§ 203.366) or the mortgagee must acquire and convey such title to a third party (§ 203.368). HUD has waived the right to object to title in a limited number of situations set forth in § 203.389. This rule would not prohibit insurance claims on any of those grounds.

HUD does not require title evidence or certification of good marketable title at closing under current procedures, but mortgagees do routinely assure themselves at closing that they will be able to obtain good marketable title through foreclosure if necessary, in order to make an insurance claim. This is recognized in HUD Handbook 4000.2, paragraph 7-1.a., which advises mortgagees originating mortgages to contact the HUD Office in case of title problems not waived by § 203.389. Nothing in this proposed rule would require title evidence at closing, but the Department would expect a mortgagee not to proceed with a mortgage in connection with property known to be ineligible for insurance under §§ 203.41 or 234.66, and to take reasonable measures to assure that the property is not ineligible under those sections.

Paragraph (b) would recognize that there are major exceptions to the general policy in the rule. The exceptions are contained in the remainder of §§ 203.41 and 234.66 principally concerning affordable housing programs, in § 203.258 (as revised on August 24, 1990, 55 FR 34800, 34806) concerning restrictions on assumption by investors, in new § 203.512 concerning mandatory credit review of assumptors, and in the amended section 203(g) of the National Housing Act which contains restrictions on mortgage assumptions for second homes which are not yet stated in regulations.

Sections 203.41 and 234.66, Paragraphs (c) and (d)

These provisions would set forth an exception for low- or moderate-income housing programs to the general policy of free assumability stated above. HUD has been applying the exception since approximately 1980. HUD has permitted mortgage insurance for properties with certain restrictions on rental or transfer of ownership if the restrictions are part of a state or local government program to further affordable housing for low- or

moderate-income persons, provided that the restrictions terminate whenever title is transferred by foreclosure or deed-in-lieu of foreclosure, or whenever the mortgage is assigned to HUD. The proviso prevents conflict with § 203.366, and protects HUD's financial interests if an insurance claim still results despite assistance to the mortgagor under a low- or moderate-income housing program. Additionally, the Department would not be able to administer effectively its property disposition functions if required to comply with the numerous varied State and local affordable housing restrictions. HUD has concluded that the objective of encouraging affordable housing justifies an exception to its general policy of free assumability as long as its financial interests are protected. This is consistent with the common law on unreasonable restraints against alienation, which recognizes that certain restraints are justifiable if the social objectives of the restraints outweigh the social injustices which are associated with restraints on alienation. See, e.g., Restatement of Property, section 410, Comment at 2429 (1944).

The proposed paragraphs (c) and (d) also would expand this policy exception to recognize recent legislative actions. Section 143 of the HUD Reform Act of 1989 eliminated most investors from the single family mortgage insurance programs. Specific exceptions were made for public bodies as mortgagors, as well as private tax-exempt nonprofit organizations as mortgagors if they intend to sell or lease mortgaged property to low- or moderate-income persons. Current HUD policy does not recognize a special status for programs operated solely by nonprofit organizations which were not part of a governmental program. As well, the current policy exception is directed to homeownership and not restrictions on rental by low- or moderate-income persons as permitted under §§ 203.41(a)(3) and 234.66(a)(3) of the proposed rule. However, section 143 is express recognition of the important role both public and nonprofit private organizations can play in developing a variety of approaches for expanding affordable housing opportunities, and this rule would permit full implementation of the current legislative policy on public and nonprofit mortgagors. Public and nonprofit affordable housing programs often require the use of special rental or transfer restrictions to ensure long-term affordability, and to prevent windfall profits to program beneficiaries. A related amendment would be made to the current §§ 203.32 (b) and (c) and 234.55 (b) and (c), to allow HUD to accept junior liens held by nonprofit organizations engaged in a low- or moderate-income housing on the same terms as junior governmental liens.

The Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) contains a number of provisions with the intended effect of increasing the involvement of Federal or federally chartered institutions in affordable housing, through property disposition by the Resolution Trust Corporation (RTC) or through affordable housing programs of the Federal Home Loan Banks. The new National Affordable Housing Act creates several major new Federal programs designed to support the objective of affordable homeownership for low- and moderate-income persons, such as the HOME Investment Partnerships and the Homeownership and Opportunity for People Everywhere (HOPE) programs. In response to these legislative provisions, the proposed rule would broadly recognize low- or moderate-income programs created pursuant to Federal law as programs included in the policy exception created in this rule.

The list of permissible restrictions in proposed paragraph (d) of §§ 203.41 and 234.66 would include the major features of affordable housing programs which have been accepted during the past decade as compatible with FHA policies, with modification where needed to be compatible with the HOPE program. Subparagraph (d)(1) would allow restrictions on the resale price of a home, but the resale price could not be so restrictive as to prevent the seller from recovering a reasonable share of any appreciation in home value. HUD would allow appreciation recovery to be limited to a share of appreciation acceptable to HUD; the current intention is to require that the seller receive at least 50 percent of appreciation. Subparagraph (d)(2) would permit restrictions to extend beyond the term of the mortgage, but would not override any State or local laws limiting the duration of restrictions.

Subparagraphs (d)(3) and (d)(4) would allow HUD to insure property subject to an option, pre-emptive right to purchase or right of first refusal to be held and exercised by a governmental body or nonprofit organization. Such rights would need to be exercised within a period of time determined by the Secretary (probably 60 days), and an option would need to be priced so that the seller would recover a share of appreciation acceptable to HUD. While proposed subparagraph (d)(4) would permit mortgage insurance for property subject to certain rights of first refusal, it would end an administrative policy adopted in 1981 which generally permitted condominium associations for condominiums at least one year old to retain rights of first refusal. Rights of first refusal required by the HOPE program would also be permitted. Subparagraphs (d)(5) and (d)(6) would authorize owner-occupancy requirements and limitations on purchasers, respectively.

Subparagraph (d)(7) addresses the splitting of fee simple into two parts so that the homebuyer initially receives title subject to a condition subsequent, while the seller (such as a local government) retains a right of entry for condition broken until the condition (such as an obligation to rehabilitate the property) is satisfied. If the seller also executes the mortgage, it can be considered a mortgage on fee simple title meeting the requirements of section 201 of the National Housing Act. However, this arrangement would constitute a legal restriction on conveyance for purposes of the proposed rule, and thus would be permissible only under the circumstances described in subparagraph (d)(7). HUD regards this arrangement as appropriate only for rehabilitation loan cases insured under section 203(k) of the National Housing Act, rather than as means for general enforcement of the terms of affordable housing programs.

HUD is satisfied that a "conditional fee" arrangement does not transgress section 201 of the National Housing Act. However, a mortgagor who has defaulted both on the condition stated in the deed and on the mortgage might not have the opportunity to be considered for possible assignment of the mortgage to HUD under section 230 of the Act, if the title reverts to the grantor before assignment can be fully considered. HUD is concerned that this could be construed as a circumvention of the intent behind section 230, which is to allow, to a mortgagor who defaults on mortgage payments because of circumstances beyond the mortgagor's control, temporary relief through assignment of the mortgage to HUD with a limited period of forbearance by HUD. The mortgagor's default on a condition stated in the deed (for example, failure to complete rehabilitation of the residence within a stated time) could be due to the same temporary financial difficulties which would make section 230 applicable. HUD specifically requests comment on whether the proposed subparagraph (d)(7) should be allowed to encourage rehabilitation of

affordable housing, despite possible interference with the objectives of section 230.

Section 203.41 and 234.66, Paragraph (e)

This provision would permit a mortgagee to make a mortgage loan funded through tax-exempt bond financing and to include a due-on-sale clause approved by the Secretary. HUD has allowed this approach since 1981 and revised instructions were issued on October 12, 1990 in Notice H 90–76. The clause would permit acceleration of the loan if it no longer qualifies for tax-exempt bond financing. This provision would enable the bond issuer, acting through the mortgagee, to protect the tax-exempt nature of the bonds and thus contribute to marketability and a lower interest rate for the bonds, which should result in a lower mortgage interest rate. The potential subsidy recapture required in certain circumstances by section 143(m) of the Internal Revenue Code does not disqualify a mortgage for insurance.

Sections 203.41 and 234.66, Paragraph (f)

This provision would recognize that protective covenants excluding non-elderly are permissible if there is no illegal discrimination and no impairment of marketability. For example, a home in a retirement community might be restricted to elderly homeowners if such property could be easily marketed and the restriction complies both with the Fair Housing Act of 1968 as amended, and any applicable state and local nondiscrimination laws.

Section 203.41 and 234.66, Paragraph (g)

Special exceptions would be recognized where real property is not freely alienable as a matter of law: mortgages insured on restricted Indian lands or Hawaiian Home Lands under sections 247 and 248 of the National Housing Act, and mortgages on property in the Northern Mariana Islands and American Samoa.

Section 203.510, Paragraph (a)

Subpart C of part 203 (the mortgage servicing regulations) would be amended by adding a new section. Paragraph (a) of the section would set forth the procedures through which a selling mortgagor can obtain release of personal liability on the mortgage. The key items would be: (i) The need for an affirmative determination by HUD or an approved Direct Endorsement lender that the purchaser is creditworthy under the standards applicable when a release of the mortgagor is intended, and (ii) assumption of personal liability by the purchaser. The latter requirement has previously been stated in the regulations as § 203.258, and the procedures which are currently followed to implement § 203.258 are consistent with those proposed in this section. The procedures are described in more detail in Mortgagee Letter 89–27.

Section 203.510, Paragraph (b)

This paragraph would implement a provision which was enacted in 1988 in the original version of section 203(r) of the National Housing Act. Section 203(r) provides that, in any case where a homeowner (mortgagor) does not request a release from liability, the purchaser and the selling homeowner shall have joint and several liability for any mortgage default for a period of five years following the date of assumption by the purchaser. Section 203(r) further provides that after the five-year period only the purchaser shall be liable, provided that there is no default at the time of the expiration of the five-year period. The five-year release provision only applies to mortgages originated pursuant to application by the borrower on a HUD form on or after December 1, 1986.

This paragraph (b) would adopt the interpretation which HUD has previously given to this statutory provision in Mortgagee Letter 88–2, the "Notice to Homeowner" attached to Mortgagee Letter 88–2, and the revised "Notice to Homeowner" attached to Mortgagee Letters 89–27 and 90–9. HUD interprets the statute as intended to assure that at least one creditworthy mortgagor is personally obligated on the mortgage at all times. When a home is sold, this objective can be achieved in one of two ways. First, a purchaser may be determined to be creditworthy at the time of sale and may personally assume liability. If this occurs, the objective described above is achieved even if the selling mortgagor is released at the time of sale. Second, the purchaser may assume personal liability and then demonstrate creditworthiness by making payments on the mortgage for a significant period of time. Section 203(r) establishes five years from the date of assumption as the appropriate measure of time under the second alternative; if the mortgage is not in default at that time the assumptor can be considered creditworthy and the seller can be released. Default status before or after the five years is not relevant for this provision of section 203(r).

Consistent with this interpretation, HUD considers the five-year release provision to apply both when no request for release or a creditworthiness determination is made at the time of sale, and when a request is made but is denied for lack of creditworthiness. The provision should be strictly limited to true assumption cases and not applied to sales subject to the mortgage without assumption of personal liability by the purchaser, in order to avoid conversion of the mortgage into a nonrecourse mortgage when the selling mortgagor is released after five years. This reading is supported by the statutory statement that "the homeowner and the purchaser shall have joint and several liability" for five years, since the statement could be true only for purchasers who are true assumptors.

Section 203.510, Paragraph (c)

Section 203(r) of the National Housing Act also requires that the original (selling) mortgagor be advised of release procedures when the purchaser is assuming liability. HUD has implemented this requirement through Mortgagee Letter 88–2 and several subsequent mortgagee letters mentioned above by developing a form entitled "Notice to Homeowner." Mortgagees must distribute the form to all applicants for insured mortgages before closing. They must also provide the form in response to any inquiry by a seller or purchaser for information on HUD's creditworthiness review criteria or for information on assumptions or release from personal liability procedures generally. Proposed paragraph (c) would add general language requiring mortgagees to provide information on release procedures using a HUD notice; the form of notice and detailed procedures would continue to be provided by Mortgagee Letter or other administrative issuance such as a handbook.

Section 203.512, Paragraph (a)

This new provision in subpart C of part 203 would parallel the new § 203.41(b) in Subpart A concerning mortgage origination by prohibiting the mortgagee from later imposing or agreeing to legal restrictions on conveyance, except for restrictions contained in a junior lien given to the mortgagee after settlement on the insured mortgage. The rule would not prohibit mortgagors from agreeing to new restrictions after settlement—for example, in second mortgages—but such restrictions must be without any approval by the mortgagee in order that they may be removed if necessary through a foreclosure procedure. Any junior lien taken by the mortgagee as an exception to this rule must not merge with the lien of the insured mortgage.

Section 203.512, Paragraph (b)

This provision would set out the rules on credit review of property covered by insured mortgages, which would be enforced through a due-on-sale clause. Before Section 341 of the Garn-St Germain Depository Institutions Act of 1982 preempted state restrictions on exercise of due-on-sale clauses, state law varied on the question of whether due-on-sale clauses were unenforceable restraints on alienation. Some FHA-approved mortgage forms originally contained due-on-sale clauses, but those clauses were removed in the late 1950's and early 1960's because such clauses were regarded as inconsistent with FHA policy permitting free alienation of mortgaged property regardless of the law of the particular jurisdiction (see previous discussion of proposed new §§ 203.41 and 234.66). The first broad exception to this policy of free alienation was the permitted use of due-on-sale clauses in insured mortgages with tax-exempt bond financing (discussed above under proposed new § 203.41(e)). The second broad exception was when HUD began requiring credit review of certain assumptors by administrative action in 1986 (Mortgagee Letter 86–15) and provided for enforcement through a mortgage due-on-sale clause.

Section 203.17 of the regulations requires use of mortgage forms approved by HUD, but the regulations have never specifically addressed the question of due-on-sale clauses. HUD did not propose a regulations amendment when Mortgagee Letter 86–15 was issued. When Congress later added section 203(r)(2) to the National Housing Act to mandate credit review of all purchasers within 12 months of the mortgage (24 months if originated for an investor), HUD concluded that Congress intended section 203(r)(2) to be enforced through the due-on-sale clause; HUD thus retained its required due-on-sale clause with appropriate changes, but without regulatory amendment. In 1989, section 203(r)(2) was revised by HUD Reform Act to require a demonstration of purchaser creditworthiness in connection with each acquisition of ownership of a home covered by an insured mortgage (except by devise or descent) for the life of a mortgage. Creditworthiness was required whether or not the acquisition involved assumption of personal liability. HUD again made appropriate conforming changes to the due-on-sale clause without regulatory amendment.

The various legislative changes were not applied retroactively to all insured mortgages. As a result, three different rules on credit review are now in effect depending on the age of the mortgage, but this can only be determined by a review of multiple mortgagee letters or the HUD handbook for mortgage credit analysis. This proposed rule is now being issued on the assumption that lifetime review of creditworthiness upon property transfer has become a permanent major policy with can be set forth in regulations without frequent further changes. The proposed rule would explain the different rules applicable for earlier mortgages.

Paragraph (b) would require creditworthiness to be determined under applicable standards prescribed by HUD. The standards may differ depending on the circumstances of the assumption. Thus, the rule would permit HUD to continue the approach used in Mortgagee Letter 89–31, under which less information is needed to make the determination of creditworthiness if the mortgage balance is less than 75 percent of appraised value. Otherwise, the credit review process at the time of sale is comparable to the process at loan origination.

Section 203.512, Paragraph (c)

The HUD Reform Act amended section 203(g) of the National Housing Act to bar insurance of most mortgages for private investors and most assumptors of insured mortgages by private investors. The amendment was implemented by a regulation issued on August 31, 1990, 55 FR 34800. It revised § 203.258 to explain which investors could be approved as substitute mortgagors. Paragraph (c) would reference § 203.258 by providing that mortgaged property shall not be sold or transferred to a person who cannot be approved as a substitute mortgagor under § 203.258. Section 203(g) was amended further by the National Affordable Housing Act to bar insurance of mortgages for most secondary residences and most assumptions of mortgages for secondary residences. Because HUD regulations have not yet been amended to include this amendment of section 203(g), paragraph (c) would also prohibit all assumptions prohibited by section 203(g). If a rule on secondary residences has been issued before this proposed rule takes effect, the final version of this rule would reference the rule on secondary residences.

Section 203.512, Paragraph (d)

Paragraph (d) would explain the means by which a mortgagee would enforce paragraphs (b) and (c) on credit review, investor and secondary residence restrictions. Current HUD requirements issued under Section 203.17 require each insured mortgage to contain a due-on-sale clause permitting acceleration if a property is sold either to an investor or a person who has not been determined to be creditworthy. Recently, Mortgagee Letters 91–1 and 91–8 also announced changes needed to the due-on-sale clause in those cases where assumption for secondary residences is prohibited by the amended section 203(g). HUD must approve each acceleration. Paragraph (d) would reference this requirement, and would require the mortgagee to request HUD approval for acceleration when a sale or transfer of property does not comply with paragraph (b) or (c), provided that acceleration is permitted by applicable law. (Currently, due-on-sale clauses are unenforceable in certain circumstances because of section 341(d) of the Garn-St Germain Depository Institutions Act of 1982.) The mortgages would be required to accelerate if HUD grants approval.

Subpart C of part 213 would also be amended to include the same provisions as would be added to subpart A of part 234.

III. Other Matters

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50 that implement section 102(c)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying between 7:30 a.m. and 5:30 p.m. each weekday in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC 20410.

This proposed rule does not constitute a "major rule" as that term is defined in section (b) of Executive Order 12291 on Federal Regulations issued by the President on February 17, 1981. Analysis of the proposed rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) causes a major increase in costs or prices or consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United-States based enterprises to compete with foreign based enterprises in domestic or export markets.

This proposed rule was listed as item number 1368 listed in the Department's Semiannual Agenda of Regulations published on October 21, 1991 (56 FR

53380, 53400) under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program numbers are 14.117, 14.132 and 14.133.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. The proposed rule would put in regulatory form existing statutory and administrative policies. Accordingly, the economic impact of this rule would be minimal and would affect small and large entities equally.

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this proposed rule do not have Federalism implications and; thus, are not subject to review under the Order. The proposed rule would continue existing practice regarding mortgage insurance for homes under State or local government affordable housing programs, and otherwise is limited in effect to private lenders and homeowners. No programmatic or policy changes result from its promulgation which would affect existing relationships between the Federal government and State and local governments.

The General Counsel, as Designated Official under Executive Order 12606, The Family, has determined that this proposed rule does not have a potential significant impact on family formation, maintenance, and general well being, and, thus, is not subject to review under the Order. No significant change in existing HUD policies or programs will result from promulgation of this proposed rule.

There are no information collection requirements contained in this rule.

List of Subjects

24 CFR Part 203

Hawaiian Natives, Home improvement, Indians—lands, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

24 CFR Part 213

Cooperatives, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 234

Condominiums, Mortgage insurance, Reporting and recordkeeping requirements.

Accordingly, 24 CFR parts 203, 213 and 234 are proposed to be amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

1. The authority citation for part 203 would continue to read as follows:

Authority: Secs. 203, 204, and 211, National Housing Act (12 U.S.C. 1709, 1710, 1715b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)). In addition, subpart C is also issued under sec. 230, National Housing Act (12 U.S.C. 1715(u)).

2. Paragraph (b) and the introductory language of paragraph (c) of § 203.32 would be revised to read as follows:

§ 203.32 Mortgage lien.

* * * * *

(b) With prior approval of the Commissioner, the mortgaged property may be subject to a secondary mortgage or loan made or insured, or other secondary lien held, by a Federal, State, or local government agency or instrumentality, or an entity designated in the homeownership plan submitted by an applicant for an implementation grant under the Homeownership and Opportunity through HOPE Act, or an eligible nonprofit organization as defined in § 203.41(a)(5), provided that the required monthly payments under the insured mortgage and the secondary mortgage or lien shall not exceed the mortgagor's reasonable ability to pay as determined by the Commissioner.

(c) With the prior approval of the Commissioner, the mortgaged property may be subject to a second mortgage held by a mortgagee not described in paragraph (b) of this section. Unless the mortgage is for the purpose described in paragraph (d) of this section, it shall meet the following requirements:

* * * * *

3. Part 203, subpart A, would be amended by adding a new § 203.41 to read as follows:

§ 203.41 Free assumability; exceptions.

(a) *Definitions.* As used in this section:

(1) *Low- or moderate-income housing* means housing which is designed to be affordable, taking into account available financing, to individuals or families whose household income does not exceed 115 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families.

(2) *Eligible governmental or nonprofit program* means a program operated pursuant to a program established by Federal law, operated by a State or local government, or operated by an eligible nonprofit organization, if the program is designed to assist the purchase of low- or moderate-income housing including rental housing.

(3) *Legal restrictions on conveyance* means any provision in any legal instrument, law or regulation applicable to the mortgagor or the mortgaged property, including but not limited to a lease, deed, sales contract, declaration of covenants, declaration of condominium, option, right of first refusal, will, or trust agreement, that attempts to cause a conveyance (including a lease) made by the mortgagor to:

(i) Be void or voidable by a third party;

(ii) Be the basis of contractual liability of the mortgagor for breach of an agreement not to convey, including rights of first refusal, pre-emptive rights or options related to mortgagor efforts to convey;

(iii) Terminate or subject to termination all or a part of the interest held by the mortgagor in the mortgaged property if a conveyance is attempted;

(iv) Be subject to the consent of a third party;

(v) Be subject to limits on the amount of sales proceeds retainable by the seller; or

(vi) Be grounds for acceleration of the insured mortgage or increase in the interest rate.

(4) *Tax-exempt bond financing* means financing which is funded in whole or in part by the proceeds of qualified mortgage bonds described in section 143 of the Internal Revenue Code of 1986 (26 U.S.C. 143), or any successor section, on which the interest is exempt from Federal income tax. The term does not include financing by qualified veteran's mortgage bonds as defined in section 143(b) of the Internal Revenue Code.

(5) *Eligible nonprofit organization* means an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501) as an organization exempt under section 501(a) of the Internal Revenue Code, which has:

(i) Two years experience as a provider of housing for low-and moderate-income housing;

(ii) A voluntary board; and

(iii) No part of its new earnings inuring to the benefit of any member, founder, contributor or individual.

(b) *Policy of free assumability with no restrictions.* A mortgage shall not be eligible for insurance if the mortgaged property is subject to legal restrictions on conveyance, except as permitted by this part.

(c) *Exception for eligible governmental or nonprofit programs.* Legal restrictions on conveyance are acceptable if:

(1) The restrictions are part of an eligible governmental or nonprofit program and are permitted by paragraph (d) of this section; and

(2) The restrictions will automatically terminate if title to the mortgaged property is transferred by foreclosure or deed-in-lieu of foreclosure, or if the mortgage is assigned to the Secretary.

(d) *Exception for eligible governmental or nonprofit programs—specific policies.* For purposes of paragraph (c) of this section, the restrictions of the following types are permitted for eligible governmental or nonprofit programs, provided that a violation of legal restrictions on conveyance may not be grounds for acceleration of the insured mortgage or for an increase in the interest rate, or for voiding a conveyance of the mortgagor's interest in the property, terminating the mortgagor's interest in the property, or subjecting the mortgagor to contractual liability other than requiring repayment of assistance, at a reasonable rate of interest, provided to make the property affordable as low- or moderate-income housing:

(1) Except as otherwise provided in the HOME Investment Partnerships and the Homeownership and Opportunity for People Everywhere (HOPE) programs, the mortgagor may be prohibited from selling the home at a price greater than the price permitted under the program, or the mortgagor may be required to pay a portion of the sales proceeds to a governmental body or an eligible nonprofit organization, as long as the mortgagor is not prohibited from recovering:

(i) The sum of the mortgagor's original purchase price, the mortgagor's reasonable costs of sales, the reasonable costs of improvements made by the mortgagor, and any negative amortization on a graduated payment mortgage insured under § 203.45; and

(ii) A reasonable share, as determined by the Secretary, of the appreciation in value which shall be the sales price reduced by the sum determined under paragraph (d)(1)(i) of this section.

(2) Legal restrictions on conveyance may extend beyond the term of the mortgage, subject to paragraph (c)(2) of this section and to any limitations applicable in the jurisdiction.

(3) Except as otherwise required by the HOME and HOPE programs, rights under an option to purchase, pre-emptive rights to purchase or rights of first refusal shall only be held by a governmental body or nonprofit organization and shall be exercised by the holder (or an assignee who will purchase and occupy the home) only within a reasonable time after the event permitting exercise of the rights occurs, not to exceed a period of time determined by the Secretary.

(4) In addition to the restrictions stated in paragraph (d)(3) of this section, the purchase price under an option may not be less than the sum of the mortgagor's original purchase price, the mortgagor's reasonable costs of sale, the reasonable costs of improvements made by seller, and a reasonable share, as determined by the Secretary, of the appreciation in value.

(5) The mortgagor may be required to continue to be an owner-occupant.

(6) The mortgagor may be limited in his or her ability to choose a purchaser for the home, but only to the extent necessary to ensure, in appropriate cases, that the home is preserved as low- or moderate-income housing.

(7) The mortgagor for a rehabilitation loan insured under § 203.50 may hold title subject to a condition subsequent, provided that the holder of the right of entry for condition broken also executes the mortgage, and that the right is exercisable only for failure by the mortgagor to complete the rehabilitation or occupy the property as agreed by the mortgagor.

(e) *Exception for tax-exempt bond financing.* A mortgage may be funded through tax-exempt bond financing and may include a due-on-sale provision in a form approved by the Secretary which permits the mortgagee to accelerate a mortgage that no longer meets Federal requirements for tax-exempt bond financing, or for other reasons acceptable to the Secretary. Except as provided in this paragraph (e), a mortgage funded through tax-exempt bond financing shall comply with all form requirements prescribed under § 203.17(a) and shall contain no other provisions designed to enforce compliance with Federal or State requirements for tax-exempt bond financing. Other legal restrictions on conveyance are permitted as provided in other paragraphs of this section.

(f) *Exception for protective covenants excluding nonelderly.* Mortgaged property may be subject to protective covenants which prohibit or restrict occupancy by, or transfer to, persons who are not elderly if:

(1) The restrictions do not have an undue effect on marketability; and

(2) The restrictions do not constitute illegal discrimination and are consistent with the Fair Housing Act and all other applicable nondiscrimination laws.

(g) *Exceptions for specific jurisdictions.* Notwithstanding the provisions of paragraph (b) of this section, mortgages insured on certain Indian land or Hawaiian home lands under sections 247 or 248 of the National Housing Act and §§ 203.43h or 203.43i, or on property in the Northern Mariana Islands or American Samoa, shall not be ineligible for insurance under this section solely because applicable law does not permit free alienability of title to all persons.

4. Part 203, subpart C, would be amended by adding a new § 203.510 to read as follows:

§ 203.510 Release of personal liability.

(a) *Procedures.* The mortgagee shall release a selling mortgagor from any personal liability for payment of the mortgage debt, if release is permitted by § 203.258, in accordance with the following procedures:

(a) The mortgagee receives a request for a creditworthiness determination for a prospective purchaser of all or part of the mortgaged property;

(2) The mortgagee or servicer performs a creditworthiness determination under § 203.512(b)(1) if the mortgagee or servicer is approved for participation in the Direct Endorsement program, or the mortgagee requests a creditworthiness determination by the Secretary;

(3) The prospective purchaser is determined to be creditworthy under the standards applicable when a release of the selling mortgagor is intended;

(4) The prospective purchaser assumes personal liability by agreeing to pay the mortgage debt; and

(5) The mortgagee provides the selling mortgagor with a release of personal liability on a form approved by the Secretary.

(b) *Release after 5 years.* (1) If a selling mortgagor is not released under the procedures described in paragraph (a) of this section, either because no request for a creditworthiness determination is submitted under paragraph (a)(1) of this section, or because there is no affirmative determination of creditworthiness under paragraph (a)(3) of this section, then the selling mortgagor is released automatically from any personal liability for payment of the mortgage debt because of section 203(r) of the National Housing Act if:

(i) The purchasing mortgagor has assumed personal liability by agreeing to pay the mortgage debt;

(ii) Five years have elapsed after the assumption; and

(iii) The purchasing mortgagor is not in default under the mortgage at the end of the five-year period.

(2) If the conditions of this paragraph (b) for a release are satisfied, the mortgagee shall provide a written release upon request to the selling mortgagor.

(3) This paragraph (b) only applies to a mortgage originated pursuant to an application made by a mortgagor on or after December 1, 1986 on a form approved by the Secretary.

(c) *Mortgagee to provide notice.* A mortgagee shall inform mortgagors (including prospective mortgagors seeking information) about the procedure for release of personal liability by providing a notice approved by the Secretary when required by the Secretary.

5. Part 203, subpart C, would be amended by adding a new § 203.512 to read as follows:

§ 203.512 Free assumability; exceptions.

(a) *Policy of free assumability with no restrictions.* A mortgagee shall not impose, agree to or enforce legal restrictions on conveyance, as defined in § 203.41(a)(3), or restrictions on assumption of the insured mortgage, unless specifically permitted by this part or contained in a junior lien granted to the mortgagee after settlement on the insured mortgage.

(b) *Credit review.* The mortgagee shall not approve the sale or other transfer of all or part of the mortgaged property, whether or not any person acquires personal liability under the mortgage in connection with the sale or other transfer, unless:

(1) At least one of the persons acquiring ownership is determined to be creditworthy under applicable standards prescribed by the Secretary;

(2) The selling mortgagor retains an ownership interest in the property;

(3) The transfer is by devise or descent;

(4) The mortgage is insured:

(i) Pursuant to a conditional commitment or master conditional commitment (or firm commitment if § 203.43(c) applies) issued before December 15, 1989; or

(ii) In accordance with the Direct Endorsement program, and the approved underwriter of the mortgagee signs the appraisal report or master appraisal report for the property before December 15, 1989; or

(iii) (A) Pursuant to a certificate of reasonable value or master certificate of reasonable value issued by the Department of Veterans Affairs before December 15, 1989; and

(B) The contract for sale is entered into more than 12 months after the date of the mortgage, or 24 months if the original mortgagor did not occupy the property as a principal residence or secondary residence (as those terms are defined in § 203.18(f); or

(5) The application by the mortgagor on a form approved by the Secretary is dated before December 1, 1986.

(c) *Investors and secondary residences.* The mortgagee shall not approve the sale or other transfer of mortgaged property to a person who cannot be approved as a substitute mortgagor as provided in section 203(g) of the National Housing Act, or in § 203.258, because the property will not be a primary or secondary residence.

(d) *Due-on-sale clause.* Each mortgage shall contain a due-on-sale clause permitting acceleration, in a form prescribed by the Secretary. If a sale or other transfer occurs without mortgagee approval and a prohibition in paragraphs (b) or (c) of this section applies, a mortgagee shall enforce this section by requesting approval from the Secretary to accelerate the mortgage, provided that acceleration is permitted by applicable law. The mortgagee shall accelerate if approval is granted. This paragraph (d) applies only if the application by the mortgagor on a form approved by the Secretary is dated on or after December 1, 1986.

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

6. The authority citation for part 213 would continue to read as follows:

Authority: Secs. 211, 213, National Housing Act (12 U.S.C. 1715b, 1715e); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

7. Paragraph (b) of § 213.520 would be revised to read as follows:

§ 213.520 Mortgage lien.

* * * * *

(b) With prior approval of the Commissioner, the mortgaged property may be subject to a secondary mortgage or loan made or insured, or other secondary lien held, by a Federal, State, or local government agency or instrumentality, or an eligible nonprofit organization as defined in § 203.41(a)(5) of this chapter, provided that the required monthly payments under the insured mortgage and the secondary mortgage or lien shall not exceed the mortgagor's reasonable ability to pay as determined by the Commissioner.

* * * * *

8. Part 213, Subpart C would be amended by adding a new § 213.527 under the centerheading "Eligible Properties" to read as follows:

§ 213.527 Free assumability; exceptions.

A mortgage shall not be eligible for insurance if the mortgaged property is subject to legal restrictions on conveyance, as defined in § 203.41(a) of this chapter, except to the extent permitted for mortgages insured under part 203 of this chapter.

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

9. The authority citation for part 234 would continue to read as follows:

Authority: Secs. 211, 234, National Housing Act (12 U.S.C. 1715b, 1715y); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

10. Paragraph (b) and the introductory text of paragraph (c) of Section 234.55 would be revised to read as follows:

§ 234.55 Mortgage lien.

* * * * *

(b) With prior approval of the Commissioner, the mortgaged property may be subject to a secondary mortgage or loan made or insured, or other secondary lien held, by a Federal, State, or local government agency or instrumentality, or who is purchasing a housing unit in connection with a homeownership program under the HOME Investment Partnerships or Homeownership Opportunity for People Everywhere programs, or an eligible nonprofit organization as defined in § 234.66(f)(5), provided that the required monthly payments under the insured mortgage and the secondary mortgage or lien shall not exceed the mortgagor's reasonable ability to pay as determined by the Commissioner.

(c) With the prior approval of the Commissioner, the mortgaged property may be subject to a second mortgage held by a mortgagee not described in paragraph (b) of this section. Unless the mortgage is for the purpose described in paragraph (d) of this section, it shall meet the following requirements:

* * * * *

11. Part 234, subpart A, would be amended by adding a new § 234.66 to read as follows:

§ 234.66 Free assumability; exceptions.

(a) *Definitions.* As used in this section:

(1) *Low- or moderate-income housing* means housing which is designed to be affordable, taking into account available financing, to individuals or families whose household income does not exceed 115 percent of the median

income for the area, as determined by the Secretary with adjustments for smaller and larger families.

(2) *Eligible governmental or nonprofit program* means a program operated pursuant to a program established by Federal law, operated by a State of local government, or operated by an eligible nonprofit organization, if the program is designed to assist the purchase of low- or moderate-income housing including rental housing.

(3) *Legal restrictions on conveyance* means any provision in any legal instrument, law or regulation applicable to the mortgagor or the mortgaged property, including but not limited to a lease, deed, sales contract, declaration of covenants, declaration of condominium, option, right of first refusal, will, or trust agreement, that attempts to cause a conveyance (including a lease) made by the mortgagor to:

(i) Be void or voidable by a third party;

(ii) Be the basis of contractual liability of the mortgagor for breach of an agreement not to convey, including rights of first refusal, preemptive rights or options related to mortgagor efforts to convey;

(iii) Terminate or subject to termination all or a part of the interest held by the mortgagor in the mortgaged property if a conveyance is attempted;

(iv) Be grounds for acceleration of the insured mortgage or increase in the interest rate;

(v) Be subject to limits on the amount of sales proceeds retainable by the seller; or

(vi) Increase the mortgagor's obligations or the mortgagee's rights under the insured mortgage.

(4) *Tax-exempt bond financing* means financing which is funded in whole or in part by the proceeds of qualified mortgage bonds described in section 143 of the Internal Revenue Code of 1986 (26 U.S.C. 143), or any successor section, on which the interest is exempt from Federal income tax. The term does not include financing funded by veteran's mortgage bonds as defined in section 143(b) of the Internal Revenue Code.

(5) *Eligible nonprofit organization* means a organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501) as an organization exempt under section 501(a) of the Internal Revenue Code, which has:

(i) Two years experience as a provider of housing for low- and moderate-income housing;

(ii) A voluntary board; and

(iii) No part of its net earnings inuring to the benefit of any member, founder, contributor or individual.

(b) *Policy of free assumability with no restrictions.* A mortgage shall not be eligible for insurance if the mortgaged property is subject to legal restrictions on conveyance, except as permitted by this part.

(c) *Exception for eligible government or nonprofit programs.* Legal restrictions on conveyance are acceptable if:

(1) The restrictions are part of an eligible governmental or nonprofit program and are permitted by paragraph (d) of this section; and

(2) The restrictions will automatically terminate if title to the mortgaged property is transferred by foreclosure or deed-in-lieu of foreclosure, or if the mortgage is assigned to the Secretary.

(d) *Exception for eligible governmental or nonprofit programs-specific policies.* For purposes of paragraph (c) of this section, restrictions of the following types are permitted for eligible governmental or nonprofit programs, provided that a violation of legal restrictions on conveyance may not be grounds for acceleration of the insured mortgage or for an increase in the interest rate, voiding a conveyance of the mortgagor's interest in the property, terminating the mortgagor's interest in the property, or subjecting the mortgagor to contractual liability other than requiring repayment of assistance, at a reasonable rate of interest, provided to make the property affordable as low- or moderate-income housing:

(1) Except as otherwise provided in the HOME Investment Partnerships and the Homeownership Opportunity for People Everywhere (HOPE) programs, the mortgagor may be prohibited from selling the home at a price greater than the price permitted under the program, or the mortgagor may be required to pay a portion of the sales proceeds to a governmental body or an eligible nonprofit organization, as long as the mortgagor is not prohibited from recovering:

(i) The sum of the mortgagor's original purchase price, the mortgagor's reasonable costs of sale, the reasonable costs of improvements made by the mortgagor, and any negative amortization on a graduated payment mortgage insured under § 234.75;

(ii) A reasonable share, as determined by the Secretary, of the appreciation in value which shall be the sales price, reduced by the sum determined under paragraph (d)(1)(i) of this section;

(2) Legal restrictions on conveyance may extend beyond the term of the mortgage, subject to paragraph (c)(f) of this section and any limitations applicable in the jurisdiction;

(3) Except as otherwise required by the HOME and HOPE programs, rights under an option to purchase, pre-emptive rights to purchase, or rights of first refusal shall only be held by a governmental body or nonprofit organization and shall be exercised by the holder (or an assignee who will purchase and occupy the home) only within a reasonable time after the event permitting exercise of the rights occurs, not to exceed a period of time determined by the Secretary;

(4) In addition to the restrictions stated in paragraph (d)(3) of this section, the purchase price under an option may not be less than the sum of the mortgagor's original purchase price, the mortgagor's reasonable costs of sale, the reasonable costs of improvements made by seller, and a reasonable share, as determined by the Secretary, of the appreciation in value;

(5) The mortgagor may be required to continue to be an owner-occupant; and

(6) The mortgagor may be limited in his or her ability to choose a purchaser for the home, but only to the extent necessary to ensure, in appropriate cases, that the home is preserved as low- or moderate-income housing.

(e) *Exception for tax-exempt bond financing.* A mortgage may be funded through tax-exempt bond financing and may include a due-on-sale provision in a form approved by the Secretary which permits the mortgagee to accelerate a mortgage that no longer meets Federal requirements for tax-exempt bond financing, or for other reasons acceptable to the Secretary. Except as provided in this paragraph (e), a mortgage funded through tax-exempt bond financing shall comply with all form requirements prescribed under §234.25(a) and shall contain no other provisions designed to enforce compliance with Federal and State requirements for tax-exempt bond financing. Other legal restrictions on conveyance are permitted as provided in other paragraphs of this section.

(f) *Exception for protective covenants excluding non-elderly.* Mortgaged property may be subject to protective covenants which prohibit or restrict occupancy by, or transfer to, persons who are not elderly if:

(1) The restrictions do not have an undue effect on marketability; and

(2) The restrictions do not constitute illegal discrimination and are consistent with the Fair Housing Act, and all other applicable nondiscrimination laws.

(g) *Exceptions for specific jurisdictions.* Notwithstanding the

provisions of paragraph (b) of this section, mortgages insured on property in the Northern Mariana Islands or American Samoa shall not be ineligible for insurance under this section solely because applicable law does not permit free alienability of title to all persons.

Dated: November 7, 1991.

Arthur J. Hill,

Assistant Secretary for Housing—Federal Housing Commissioner.

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Thursday
November 21, 1991

Part V

Department of the Treasury

Office of International Investment

31 CFR Part 800

Regulations Pertaining to Mergers, Acquisitions, and Takeovers by Foreign Persons; Final Rule

DEPARTMENT OF THE TREASURY

Office of International Investment

31 CFR Part 800

Regulations Pertaining to Mergers, Acquisitions, and Takeovers by Foreign Persons

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: These regulations implement section 721 of title VII of the Defense Production Act of 1950 ("the DPA"), as added by section 5021 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418), relating to mergers, acquisitions, and takeovers of U.S. persons by or with foreign persons. Section 721 was exempted from the sunset provision of the DPA and thus made permanent law by Public Law 102–99, signed on August 17, 1991. Section 721 provides that the President shall direct the issuance of implementing regulations. By Executive Order 12661 of December 27, 1988, the President delegated that authority to the Chairman of the Committee on Foreign Investment in the United States ("the Committee"), in consultation with other members of the Committee. The Chairman of the Committee is the Secretary of the Treasury.

EFFECTIVE DATE: November 21, 1991.

FOR FURTHER INFORMATION CONTACT: Marilyn L. Muench, Deputy Assistant General Counsel, Department of the Treasury, 15th Street and Pennsylvania Ave., NW., Washington, DC 20220, (202) 566–8401.

For further information regarding procedures for giving notice, contact Stephen J. Canner, Staff Chairman of the Committee and Director, Office of International Investment, room 5100, Department of the Treasury, 15th Street and Pennsylvania Avenue NW., Washington, DC 20220, (202) 566–2386.

SUPPLEMENTARY INFORMATION: Section 709 of the Defense Production Act exempts the functions exercised under that Act from the operation of the Administrative Procedure Act, but requires that any regulations issued under the authority of the Act be accompanied by a statement that industry representatives were consulted in the formulation of the regulations. Pursuant to that provision, the Committee consulted with a number of such representatives, and gave consideration to their views and recommendations in drafting the final regulations. In addition, although the Committee was not required to publish the regulations in proposed form, the Committee elected to do so as a means of soliciting public comment, given the complexity of the subject area covered by the regulations and their potential impact on commerce. On July 14, 1989, proposed regulations were published in the Federal Register. 54 FR 29744. A sixty-day public comment period followed. These final regulations reflect certain suggestions made in the public comments.

The preamble to these regulations will be preserved as an appendix when the regulations are codified and published in the Code of Federal Regulations.

Executive Order 12991: These regulations are not subject to the requirements of Executive Order 12991 because they relate to a foreign and military affairs function of the United States.

Paperwork Reduction Act: The collections of information provided for in this final rule have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collections of information should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (1505–0121), Washington, DC 20503, with copies to the Office of International Investment at the address noted above.

The collections of information provided for in this final rule are in §§ 800.402 and 800.505. This information is required by the Committee to assist it in determining whether to investigate mergers, acquisitions, and takeovers of persons engaged in interstate commerce in the United States by or with foreign persons for possible threats to the national security, as required by section 721 of the Defense Production Act. This information will be used to determine the extent and nature of foreign control, as well as the national security implications of the transactions at issue. The likely respondents are individuals and businesses.

Estimated total annual reporting burden: 12,995 hours.

Estimated average annual burden per respondent: This varies, depending on individual circumstances, with an estimated average of 57.7 hours.

Estimated number of respondents: 225.

Estimated annual frequency of responses: 1.

Regulatory Flexibility Act: These regulations implement section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) ("DPA"). Section 709 of the DPA (50 U.S.C. App. 2159) provides that the regulations issued under it are not subject to the rulemaking requirements of the Administrative Procedure Act (5 U.S.C. 553). Moreover, notice and public procedure are not required pursuant to 5 U.S.C. 553(a)(1). Accordingly, and although these regulations were issued in proposed form for public comment, these regulations, which implement the Defense Production Act, are not subject to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Discussion of Final Rule

I. Introduction

On July 14, 1989, the Department of the Treasury published proposed Regulations Pertaining to Mergers, Acquisitions and Takeovers by Foreign Persons. The purpose of the proposed regulations was to implement Section 721 (hereinafter referred to as "Section 721") of Title VII of the Defense Production Act of 1950, as added section 5021 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418), relating to mergers, acquisitions, and takeovers of U.S. persons by or with foreign persons. Section 721, which was subject to the sunset provision of the DPA, lapsed on October 20, 1990, and was reinstated and made permanent law by Public Law 102–99 (signed August 17, 1991).

The period for receiving comments on the proposed regulations closed on September 14, 1989; during that time, over seventy parties—including private and public, as well as domestic and foreign entities—filed in total some 500 pages of comments. The changes that have been incorporated into the final version of the regulations reflect both suggestions made in those comments and the experience of the Committee on Foreign Investment in the United States ("the Committee") in reviewing transactions notified under section 721 since the proposed regulations were published. These changes are of a substantive nature as well as of a technical nature; examples of the latter include clarifications of terms and changes in format. The substantive issues will be discussed in the next section; the most significant technical changes will be discussed in the third section of this preamble.

II. General Discussion: Major Substantive Issues Raised by the Public Comments

Despite the wide range of interests represented by the public comments and the large volume of those comments, the comments generally focused on nine major issues: the meaning of "national

security"; the scope of section 721's coverage, focusing largely on the size of a transaction or date of completion; the definition of "foreign control"; the application of section 721 to foreign lenders; the desirability of fast track treatment for certain types of transactions; the treatment of transactions involving hostile parties; the provisions of the regulations providing remedies for material omissions or errors; Committee procedures; and the possibility of a "sunset" on the President's power to act under section 721 on non-notified transactions. The suggested resolutions of these issues varied significantly in many cases. Each of these major issues, including some of the resolutions proposed by the public, will be discussed generally in this section of the preamble. A more detailed analysis, tied to the actual wording of the final regulations, follows in the next section. The final section reiterates certain information on international obligations of the United States that was set forth in the preamble to the proposed regulations.

National Security

The desire for a definition of "national security," or for expanded guidance as to the meaning of that term, was a major theme of the public comments. Commenters had a wide range of recommendations on this point. Their suggestions, as well as the Committee's view of them, will be discussed generally in the following paragraphs.

Some commenters suggested that changes be made in the regulations to incorporate either positive lists of products and services considered essential to the national security, or negative lists of areas that are not so considered. Other commenters suggested that the regulations incorporate a multi-factor test, based on a list of products and services the significance of which to the national security would depend on a number of other factors, such as the dollar value of the transaction, or the availability of the product or service from other U.S. suppliers. The Committee rejected these proposals, because they could improperly curtail the President's broad authority to protect the national security, and, at the same time, not result in guidance sufficiently detailed to be helpful to parties.

A third approach recommended in the public comments was to offer guidance as to the factors that are considered in a national security analysis. Such guidance would not have the legal effect of exemptions or lists, but would be intended to give the Committee's general views as to when filing might be considered appropriate. The Committee has adopted a limited form of this latter approach; however, since it believes such guidance is more appropriate to the preamble than the regulations themselves, the guidance is set forth below.

As is made clear in the principal legislative history (H.R. Report No. 576, 100th Cong., 2d Sess. 925–928, hereinafter "Conference Report"), the focus of Section 721 is on transactions that could threaten to impair the national security. Although neither the statute nor the Conference Report defines national security, the conferees explain that it is to be interpreted broadly and without limitation to particular industries. Conference Report at 926–927. In line with both the statute and the Conference Report, the final regulations do not define "national security." Ultimately, under section 721 and the Constitution the judgment as to whether a transaction threatens national security rests within the President's discretion.

Generally speaking, transactions that involve products, services, and technologies that are important to U.S. national defense requirements will usually be deemed significant with respect to the national security. It is the Committee's view that notice, while voluntary, would clearly be appropriate when, for example, a company is being acquired that provides products or key technologies essential to U.S. defense requirements. On the other hand, the Committee does not intend to suggest that notice should be submitted in cases where the entire output of a company to be acquired consists of products and/or services that clearly have no particular relationship to national security.

The regulations contemplate that persons considering transactions will exercise their own judgment and discretion in determining whether to give notice to the Committee with respect to a particular transaction. Nonetheless, persons wishing to seek general guidance are invited to contact the office of the Staff Chairman, at the address and telephone number indicated above.

In addition to proposing changes to the regulations themselves, a number of commenters suggested that the Committee publish guidance outside the regulations, in order to enhance public understanding of "national security." For example, some suggested that the Committee issue binding advisory opinions with respect to transactions on the strength of something less than full notice. The Committee rejected this suggestion on the grounds that it would be impossible for the Committee to fulfill its obligation to make a thorough national security analysis based on an abbreviated or informal filing, and the Committee in such cases would generally have to advise the parties to submit a formal filing, resulting in lost time on both sides.

Several parties asked the Committee to consider publishing in summary form a digest of all the reviews and investigations the Committee had undertaken, including information on how the Committee disposed of each transaction. This approach was determined to have two essential shortcomings. First, national security considerations preclude revealing why the Committee or the President reached a particular view. Without that information, parties could inappropriately conclude that an outcome in a previous case would be relevant to the outcome of their own case where both appeared to involve similar facts and circumstances. The public would have no way of assessing which factors were most important to the Committee's final determination, or whether other factors, not mentioned in the summary, played an important role in the outcome. Second, the Committee is statutorily required to maintain confidentiality with respect to section 721 filings. Publication of even "cleansed" summaries could sacrifice the confidentiality of a filing and potentially create concerns by parties over inadvertent publication of business confidential information, while affording relatively little useful information to readers.

Scope of Coverage

With respect to the scope of coverage of section 721, a number of parties suggested various "bright line" tests to eliminate certain transactions from coverage, primarily based on their size, but also on other criteria. For example, it was frequently suggested that transactions under a certain dollar threshold be exempted, on the theory that very small acquisitions could not possibly have a meaningful impact on the national security. Other parties suggested a test based on the market share represented by a particular transaction. Because the Committee's experience in reviewing notified transactions has demonstrated that there is no predictable relationship between the size or dollar value of a transaction and its significance to the national security, it decided that it would be inappropriate to adopt bright line tests based on such criteria.

Many commenters argued that there should be an exemption for transactions completed after the date on which section 721 became effective (August 23, 1988), but which were not notified to the Committee. The Committee has not adopted this suggestion, which, in the Committee's view, would seriously undermine the effectiveness of the statute.

The regulations establish a voluntary, rather than a mandatory, system of notice. Nevertheless, the Committee wanted to ensure that the President would be able to act with respect to any transaction that might threaten the national security. For this reason, agency notice was permitted for transactions that were not notified by parties to the transaction. Also, as an incentive for parties to give notice of transactions that might raise concerns, the possibility of Presidential action exists for completed transactions that have not been notified to the Committee.

This approach is justified by the language of section 721. The first sentence of paragraph (a) of section 721 provides:

> The President or his designee may make an investigation to determine the effects on national security of mergers, acquisitions, and takeovers *proposed or pending on or after the date of enactment of this section* by or with foreign persons which could result in foreign control of persons engaged in interstate commerce in the United States. (Emphasis provided).

The plain meaning of this sentence is that one of two criteria must be present to bring a transaction under section 721. A transaction must have been proposed on or after the date of enactment, or it must be (or have been) pending on or after the date of enactment to be subject to section 721. This language does not exclude completed transactions. Thus, a transaction proposed on or after the date of enactment—regardless of whether it is completed by the time of notice—is subject to section 721. Similarly, a transaction proposed before the effective date but still pending on or after that date would also be subject to section 721, again, regardless of whether it was completed at the time of notice.

Some commenters have read the second sentence of section 721(a) as suggesting that Congress did not intend to capture completed transactions. That sentence reads: "If it is determined that an investigation should be undertaken, it shall commence no later than 30 days after receipt by the President or the President's designee of written notice *of the proposed or pending merger, acquisition, or takeover* as prescribed by regulations promulgated pursuant to this section." (Emphasis added.) Some commenters have argued that this sentence suggests that transactions must also be proposed or pending *as of the time of notice*, thereby precluding notice of completed transactions.

However, it would be inconsistent with the national security purposes of the statute to infer that Congress intended to establish a large loophole by which parties could avoid a review under section 721 simply by not giving notice of a transaction. It is much more reasonable to view this language as reflecting the usual case, *i.e.*, that parties give notice or transactions while they are still proposed or pending, but not precluding notice of completed transactions as well. Once a transaction is subject to section 721, all of the powers and remedies granted the President under that section apply to the transaction, including, but not limited to, divestment relief. Section 721(c) provides that the President may "take any action * * * to suspend or prohibit any acquisition * * * proposed or pending on or after the date of enactment of this section * * * so that [foreign] control will not threaten to impair the national security." Section 721(c) further provides that the President "may direct the Attorney General to seek appropriate relief, including divestment relief * * * in order to implement and enforce this section." Again, the relief available under the statute for any transaction pending on or after the date of enactment is broad, and nothing in the statute narrows the availability of any Presidential remedies.

Foreign Control

The proposed regulations defined control functionally, in terms of the ability of the acquirer to make certain important decisions about the acquired company, such as whether to dissolve the entity, or to relocate or close production or research and development facilities. A number of commenters complained that this standard is to nebulous, and advocated the adoption of a bright line control test based on a particular percentage of stock ownership and/or the composition of the board of directors. Given the national security purposes underlying section 721, the Committee believes it would be inappropriate to adopt such bright line tests, which would make it relatively easy to structure transactions to circumvent the statute. However, the Committee did make certain minor adjustments in the control standard to remove unnecessary ambiguity. These changes are discussed below in the section-by-section analysis at §§ 800.204 and 800.211.

Foreign Lenders

At the time the proposed regulations were drafted, the Committee had almost no information on how Section 721 would affect transactions involving foreign lenders. The proposed regulations were therefore deliberately vague as to whether foreign lending transactions would be covered and, if so, the appropriate time for giving notice—*i.e.*, at the time a loan was made, or at the time of default. Since the publication of the proposed regulations in July 1989, the Committee has had more experience in reviewing lending transactions, in addition to the benefit of the public comments. Although the comments were not unanimous on this point, most commenters urged that lending transactions not be covered at the time a loan is made, in view of the unlikelihood that the loan itself will culminate in the foreign lender's acquiring control.

However, these commenters were nevertheless concerned that foreign lenders be given some assurance that the value of their security interest would not be affected by CFIUS action. The Committee concluded that the acquisition of a security interest, without control, is not covered by section 721. Thus, if a lending transaction included, for example, contractual or other arrangements that conferred control, the transaction would be subject to section 721. However, the Committee would not view standard provisions of loan contracts (*e.g.*, ordinary covenants of the borrower pertaining to liens, or a lender's right of veto over mergers or the sale of property), in and of themselves, to confer control over the borrower. (See the discussions below under §§ 800.302 and 800.303 for further elaboration of the treatment of foreign lending transactions.)

Internal Fast Track Mechanism

A number of commenters urged the adoption of a fast track procedure for reviewing notices under section 721 that clearly do not raise serious national security concerns. Because of the very short time frame for reviews that already exists (as provided in the statute), and in order not to encourage parties to give notice of marginal transactions, the Committee decided not to create a formal fast track in the regulations. The Committee Staff Chairman is available to discuss proposed transactions with parties contemplating notice.

Hostile Takeovers

Fast track treatment of notified transactions involving hostile parties was also requested in several of the comments, on the grounds that the delay caused by Committee review under section 721 can unfairly give a target company time to thwart an unsolicited bid. Although this has not been a significant problem to date, the Committee will not tolerate attempts to delay or obstruct the review process; the final regulations make clear that the parties that did not file the notice must file information requested by the Staff Chairman within seven days of that request. (See the discussion in the section-by-section analysis at 800.402.) If necessary, the Committee can resort to its subpoena authority in the Defense Production Act to enforce compliance with section 721.

Remedies for Material Omissions and Errors

Many of the commenters contended that the absence of any definition for "material" in §§ 800.601 (pertaining to material omissions) and 800.701 (pertaining to material changes) creates uncertainty about the finality of any decision by the President not to investigate or take other action with respect to a notified transaction. To lessen this uncertainty, some commenters suggested that the final regulations incorporate a limit on the President's authority to reopen consideration of a transaction previously considered under section 721 due to a material omission. Others suggested that there be a time limit on the Committee's ability to reject a notice on the grounds of material change. The Committee did not adopt either of these time limitations. The former could potentially reward parties who conceal information or fail to take adequate care to bring all material facts about a transaction to light in a notice. The latter limitation could prevent the Committee from declining to complete its review of a transaction that changes radically very late in the 30-day review period, and could force an investigation even in a case where it would not otherwise be necessary.

The Committee also did not accept the suggestion made by a few commenters that a transaction be reopened only when the Committee can show that the parties deliberately withheld material information. If information is material to the Committee's or the President's deliberation, it is irrelevant to the issue of materiality whether the information was intentionally withheld. The Committee has accepted suggestions that greater guidance as to the meaning of "materiality" be given in the regulations. It is also important to note that parties may at any time during the course of a review under section 721 amend the notice to apprise the Committee of an omission in the original filing or of a change in the transaction since the time the filing was made, and that such an amendment will not necessarily affect the Committee's ability to complete its review of the transaction within the statutory time periods. From the parties' perspective, it is clearly advantageous to bring material changes and omissions to light during the course of a review, rather than to risk discovery of such matters by the Committee at a subsequent time.

A material change that occurs during the course of review that is not brought to the Committee's attention will be subsequently viewed as an omission, and may cause the Committee to reopen its consideration of a case. The same would be true of a change that occurs after the President has announced his decision but was contemplated by the parties at the time the transaction was under review and not communicated to the Committee. However, recognizing that businesses often change in terms of function and structure, the Committee would not consider a material change that is both conceived and executed after the President's determination as a basis for reopening a case.

Committee Procedures

Commenters made a number of suggestions regarding Committee procedures. In some cases, the Committee had already been following the recommended procedures, and the final rule makes that explicit. For example, in appropriate instances, the Committee has met with parties involved in particular transactions in order to obtain further clarification or elaboration of the materials presented in the initial filing.

It is worth noting that the Committee follows certain other procedures, not spelled out in the final regulations, that help ensure the fairness of the review process. For example, the Committee sometimes receives unsolicited communications from third parties concerning certain transactions. In order to ensure fairness, the Committee generally requests the parties to comment on the substance of third party communications that the Committee believes may be relevant to its full understanding of the notified transaction. Similarly, the Staff Chairman handles all communications by the Committee with the parties, so as to avoid any confusion resulting from contacts with individual Committee members by the parties or third parties.

A number of the recommendations in the comments about Committee procedures would make the review process a highly formalistic, adversarial process. This outcome was considered undesirable by the Committee, and such recommendations were not accepted. For example, the Committee did not adopt the suggestion that the parties be required to exchange public versions of their submissions to the Committee, or that material be filed only under oath. The Committee believes that giving the parties an opportunity to comment, when appropriate, on the substance of statements made by each other, as well as by non-governmental third parties, adequately ensure the integrity of the review process.

Sunset on Presidential Authority Under Section 721

Another concern expressed in the public comments pertained to the fact that the statute places no time limits on the President's authority to take action with respect to non-notified transactions. Some commenters argued that the absence of a limit on the President's power to divest a completed transaction effectively converts section 721 into a screening mechanism, since most parties will file notices to eliminate the possibility of future divestment. Several commenters suggested adoption of a sunset.

The Committee acknowledges that parties may have to make difficult decisions about whether or not to file under section 721, particularly when time is a critical factor in closing a deal. However, in the Committee's view, it would be inappropriate for the regulations to limit the President's authority to protect the national security with respect to any given transaction after a particular time. Instead, the regulations contain a new provision that limits to three years the time during which an agency can give notice with respect to a completed transaction. After the three year period, only transactions that appear to raise national security concerns can be reviewed and investigated, pursuant to a request from the Chairman of the Committee, in consultation with other members of the Committee. (See below § 800.401.)

Some commenters evidently fear that a transaction could be reviewed several years after it was completed. The Committee notes that divestment with respect to a completed but non-notified transaction would be limited by the requirement in paragraph (d) of

§ 800.601 that it be based on facts, conditions, or circumstances existing at the time the transaction was concluded. Parties should also note the addition of a new limitation on reviewing completed transactions, which has been incorporated at § 800.601(d). Advice in writing by the Committee that a notified transaction is not subject to section 721, *e.g.*, because the transaction would not result in foreign control of a U.S. business, is final and binding with respect to the transaction, as long as the information on which that determination is based is accurate with respect to the transaction. However, subsequent changes in the material facts pertaining to control, *e.g.*, a proposal by the foreign party to acquire additional stock, may result in a situation where notice to the Committee could be appropriate.

International Obligations

In discharging its responsibilities under section 721, the Committee takes a case-by-case approach. The Conference Report states that section 721 is not intended to abrogate existing obligations of the United States under treaties, including Treaties of Friendship, Commerce and Navigation. Conference Report at 927. Those treaties contain national treatment provisions under which the United States is obligated to extend foreign parties treatment no less favorable than that accorded domestic parties, but is permitted to institute measures to protect U.S. national security. The Committee intends to implement section 721 and the regulations in a manner fully consistent with the international obligations of the United States.

III. Section-by-Section Discussion of Changes

The Definitions section, subpart B, has been alphabetized.

Section 800.201. In subsection (a), the definition of acquisition has been expanded to include specifically the acquisition of a person by a proxy contest undertaken for the purpose of obtaining control. In the preamble to the proposed regulations, the Committee requested public comments on the desirability of covering proxy contests under the regulations. The comments were inconclusive on this point. The Committee decided to cover specifically proxy contests undertaken for the purpose of obtaining control, such as a contest to change the board of directors, because such a contest represents a takeover attempt. Parties may give notice at or just prior to the time a proxy solicitation commences. However, contests undertaken for any purpose other than to obtain control would not be covered by the regulations.

In subsection (b), qualifying language has been added to the provision concerning the acquisition of assets where, in addition to the asset acquisition, the acquirer will make substantial use of the seller's technology. The qualifier "excluding technical information generally accompanying the sale of equipment" is intended to convey that an acquisition of assets is not covered by section 721 unless the technology acquired by the foreign person is separate and apart from that inherent in, or typically accompanying the asset, such as instruction manuals and operating procedures that would routinely accompany equipment.

Section 800.204. The definition of control in the proposed regulations included the ability to "formulate" matters or decisions affecting an entity. A number of public commenters noted that the ability to "formulate" in this sense is not a meaningful index of control, since technically any shareholder has this right. To alleviate any uncertainty on this point, "formulate" has been dropped from the definition.

The definition of control has also been modified with the addition of subsection (b) to clarify that a U.S. person will not automatically be deemed to be foreign-controlled where a number of unrelated foreign parties hold an interest in that person. This point would apply even when the foreign parties taken as a whole hold the majority of stock in a U.S. company. The Committee would have to determine in such a case, as it would in any notified transaction, whether any single foreign party, acting on its own or in concert with another party (*e.g.*, through contractual arrangements), could control the U.S. person.

Section 800.211. A minor change to the wording of the definition of "foreign person" has been made to emphasize that there must be the present potential for control by a foreign interest, rather than a mere remote possibility, for an entity to be considered a foreign person under section 721. Whereas the regulation previously read "an entity over which control is *or could be exercised* by a foreign interest," the underlined phrase has been replaced by "exercised or exercisable" to alleviate vagueness or remoteness in the standard. Thus, only the present potential for control (regardless of whether the foreign interest actually exercises it) matters for purposes of this section.

Section 800.214. The proposed regulations left unresolved the issue of who are the parties to an acquisition in the case of a proxy solicitation. In light of the Committee's decision to cover proxy solicitations undertaken for the purpose of obtaining control just prior to and at the time the solicitation is made, the final regulations make both the persons soliciting proxies as well as the person who issued the voting securities parties to the acquisition.

Section 800.217. To make this section consistent with the modified definition of control, the word "formulation" has been deleted from the definition of "solely for the purpose of investment." (See section 800.204 above.) With respect to section 800.302(d) (which should be consulted), a party that has no intention of determining or directing the basic business decisions of the issuer, and who does not possess or develop any purpose other than investment, or take any action inconsistent with that purpose, would be deemed to hold securities solely for the purpose of investment.

Section 800.220. This section defines U.S. person as any entity "but only to the extent of its business activities in interstate commerce in the United States, irrespective of the nationality of the individuals or entities which control it." To underscore the significance of that qualifier to the definition, a third example has been added to this section. The example describes the acquisition by a foreign person of a foreign subsidiary of a U.S. corporation. In the facts presented by the example, the foreign subsidiary has no fixed place of business in the United States, but merely exports goods to the U.S. parent and to unaffiliated companies in the United States. The acquisition of such an entity by a foreign person would not constitute the acquisition of a U.S. person under section 721 because the mere export of goods to the United States by a foreign subsidiary with no fixed place of business in this country does not constitute "business activity in interstate commerce in the United States" for purposes of the Section.

Section 800.301. A few points pertaining to joint venture transactions have been clarified in this section. First, a joint venture transaction is subject to section 721 only if an existing, identifiable business in the United States is contributed to the venture. A joint venture transaction in which the U.S. contribution is a company founded for the purposes of the transaction would not be subject to section 721. Moreover, even where an identifiable business has been contributed to the

venture, the transaction is not subject to section 721 unless the foreign party would control the venture. Therefore, joint venture transactions in which control is equally shared by the U.S. partner and the foreign partner, *i.e.*, where each party has a veto power over all the decisions of the joint venture, would not be subject to section 721. It is important to note, however, that this rule does not apply to other forms of business organization, such as when a foreign person acquires 50 percent of the stock of an existing U.S. company. In such cases, the Committee may, depending on the other facts surrounding the transaction, conclude that the stock acquisition confers control on the foreign person.

Section 800.302. Subsection (i) has been added to section 800.302 as a corollary to section 301(b)(1), which provides that proposed or completed acquisitions by or with foreign persons which could or do result in foreign control of a U.S. person would be subject to section 721. Subsection (i) of § 800.302 provides that an acquisition (1) that does not involve the acquisition of control of (2) a person engaged in interstate commerce in the United States (*i.e.*, a U.S. person) would not be subject to section 721. Two examples are provided to illustrate the two components of this provision. First, with respect to the acquisition of control, when a foreign person acquires an interest, such as stock, in a U.S. person, but that interest is insufficient to confer control, the acquisition is not subject to section 721. The Committee's options for handling a notice of such a transaction are set out in § 800.403 of the regulations.

Second, with respect to the component pertaining to being engaged in interstate commerce in the United States, Example 2 is intended to illustrate that the acquisition of a business that is essentially a non-operational shell—*i.e.*, having no employees, plants, equipment, or subsidiaries in the United States—would not satisfy this component and would therefore not be an acquisition subject to section 721.

Section 800.303. This section has been added to the regulations to clarify the Committee's treatment of lending transactions. As explained under § 800.302 above, the acquisition of a security interest by a foreign lender in a lending transaction does not, without control, subject a transaction to section 721. Section 800.303 provides that the Committee will not accept notices of such transactions. However, the Committee will accept notice of such transactions where, because of actual or imminent default or other condition, the foreign lender is likely to obtain control of the U.S. person. In general, the Committee will accept the parties' view of the imminence of default, recognizing that in some cases waiting too long before filing notice could affect the lender's recourse to certain remedies, or the willingness of the borrower to cooperate fully in the preparation of a filing.

Some commenters argued that if the Committee does not accept notices of lending transactions until actual or imminent default, the lender will never have adequate assurance of the value of its security interest, which may eventually discourage foreign lenders from entering into financing transactions that may be subject to section 721. Some argued that the acquisition of stock or assets as a result of a default should be exempt from section 721, because it is essentially similar to an acquisition pursuant to an insurance contract made in the ordinary course of business, which is exempt under § 800.302(g). The Committee does not find it appropriate to exempt the acquisition of a U.S. person that results from a borrower's default. However, to help alleviate the lenders' concerns in such circumstances, the Committee will take into account steps the lender takes to transfer day-to-day control over the U.S. person to U.S. nationals, pending final sale of the U.S. person. For example, in appropriate cases, the Committee could determine that the lender does not control a company acquired through default when it appoints a trustee to run the company and commits to sell it within a specified reasonable period of time.

Section 800.303 also contains a special provision—subsection (b)—for foreign banks participating in loan syndications. In view of the limitations on control of the borrower by any one bank that are often inherent in the structure of a syndicate of banks in a loan participation, the Committee will deem any foreign lender in a syndicate not to have control for purposes of section 721 where such lender needs the consent of the majority of the U.S. participants to take action, or does not have a lead role in the syndicate and is subject to a special provision limiting its influence, ownership or control over the borrower.

Section 800.401. This section contains a new provision with respect to non-notified transactions. No agency notice can be made with respect to such a transaction more than three years after the date it was concluded unless the Chairman of the Committee, in consultation with other members of the Committee, requests an investigation. This provision was added to assuage public concern that non-notified transactions are indefinitely subject to divestment by the President. The President's powers under section 721 are *not* affected by this provision.

Section 800.402. Until now, the Committee has been willing to accept notices of transactions from just one of the parties to a transaction, recognizing that in some cases one of the parties alone will be able to provide answers and materials responsive to the questions posed in § 800.402. Although the Committee will continue to accept notices prepared by just one party to a transaction that give information with respect to all the parties, the final regulations require all the parties to sign such a filing, thereby indicating to the Committee that each party is satisfied that the information in the filing pertaining to it is accurate and complete.

With respect to filings submitted by a party independently of the other parties, several points are worth noting. First, a minor wording change has been made in paragraph (1) of subsection (b) of this section for purposes of clarity: "Such information" has been replaced by "the information set out in this section." Although the phrase in that paragraph, "to the extent known or reasonably available to it," remains unchanged from the proposed regulations, it merits discussion here in order to remove any uncertainty. When a party giving notice is unable to answer fully a question pertaining to the other party, it is not excused by the words "to the extent known or reasonably available to it" from submitting a complete and accurate filing, as has evidently been assumed by some parties. The Committee expects that in such a case either the party giving notice will obtain the assistance of the other party or parties, or that the latter independently will make a filing to the Committee, supplying the relevant information.

In any case, the Committee will delay beginning the initial thirty-day review period until the filing is complete with respect to both parties. Subsection (b) makes clear that the Staff Chairman of the Committee, when necessary, will contact directly the party or parties that did not file the notice and request that information responsive to section 800.402 be filed within seven days of receipt of the request.

A new provision has been added to subsection (c), requesting parties to submit a summary of the transaction. The Committee requests that the party(ies) that give notice be as clear and concise as possible. A readily

understandable summary will expedite the Committee's work.

Paragraph (3) of subsection (c) has also been modified to lengthen the period of time from three to five years for which contracts involving classified information should be described in a filing. As for contracts with the Department of Defense or any other agency of the U.S. Government with national defense responsibilities (such as the Department of Energy or the Nuclear Regulatory Commission), which contracts do not involve classified information, parties should continue to provide information for the past three years only.

Section 800.403. This new section sets out the Committee's options for handling certain voluntary notices; most of these points have been addressed in the preceding discussion. The Committee will delay acceptance of a notice that does not comply with § 800.402. It reserves the right to reject a voluntary notice at any time before action by the Committee or the President has been concluded, if there has been a material change in the notified transaction.

As provided in § 800.403(a)(4), the Committee will also inform the party submitting a voluntary notice if it decides not to undertake a substantive review of a transaction because it has determined that the notified transaction is not subject to section 721. For example, where the Committee determines that a notified transaction will not result in foreign control, the Committee would inform the parties of the nature of its determination, (*e.g.*, no foreign control) and advise them to consider filing at a later date should an acquisition of control be contemplated.

Section 800.404. A technical wording change has been made to this section (which was numbered § 800.403 under the proposed regulations). The words "has been accepted" in the first sentence of that section replace "is received" to underscore that the 30-day review period does not begin until the Chair has determined that the voluntary notice complies with the requirements of § 800.402. Further technical changes were made to subsection (a) to reflect changes made in § 800.401 concerning agency notice.

Section 800.501. Subsection (b) has been added to this section to make explicit a practice the Committee has been following since it began receiving notices under section 721, *i.e.*, inviting the parties to certain notified transactions to meet with the Committee. The Staff Chairman, at his discretion, may invite the parties to a meeting to clarify certain issues with respect to the filing; such a meeting may occur either during the 30-day review period or during the investigation. When the parties involved in investigations request a meeting with the Committee, the request is ordinarily granted.

Section 800.601. A number of commenters expressed concern that the finality of Committee or Presidential action under section 721 is called into question if there is a right to reopen consideration of a case on the basis of material omissions or material misstatements. This section has been expanded in an attempt to allay some of those concerns. Subsection (f) has been added to clarify the matters the Committee considers "material": These are confined to information requested by § 800.402 of the regulations; information requested by the Committee during the course of an initial review, an investigation, or the Presidential determination period; or information provided by the party(ies) *sua sponte*. However, the Committee will generally not find information to be "material" if it concerns purely commercial matters having no bearing on national security, such as the price of stock.

Drafting Information

The principal author of this document is the Office of the Assistant General Counsel (International Affairs). However, personnel from other offices at the Treasury Department and from other agencies that are members of the Committee participated extensively in its development.

List of Subjects in 31 CFR Part 800

Foreign investments in United States, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, a new chapter VIII, Office of International Investment, Department of the Treasury, is added to Title 31 of the Code of Federal Regulations, consisting of part 800, as set forth below.

CHAPTER VIII—OFFICE OF INTERNATIONAL INVESTMENT, DEPARTMENT OF THE TREASURY

PART 800—REGULATIONS PERTAINING TO MERGERS, ACQUISITIONS, AND TAKEOVERS BY FOREIGN PERSONS

Subpart A—General

Sec.

Subpart B—Definitions

Subpart C—Coverage

Subpart D—Notice

Subpart E—Committee Procedures: Review and Investigation

Subpart F—Presidential Action

Subpart G—Provision and Handling of Information

Appendix to Part 800—Preamble to Regulations on Mergers, Acquisitions, and Takeovers by Foreign Persons (Published November 21, 1991)

Authority: Section 721 of Pub. L. 100-418, 102 Stat. 1107, made permanent law by section 8 of Pub. L. 102-99, 105 Stat. 487 (50 U.S.C. App. 2170); Section 705 of the Defense Production Act of 1950 (50 U.S.C. App. 2155); E.O. 12661, 54 FR 779, 3 CFR 1988 Comp. p. 618.

Subpart A—General

§ 800.101 Scope.

The regulations in this part implement section 721 of Title VII of the Defense Production Act of 1950, hereinafter referred to as "Section 721" (see

§ 800.216 of this part). The definitions in this part are applicable to section 721 and these regulations. The principal purpose of section 721 is to authorize the President to suspend or prohibit any merger, acquisition, or takeover, by or with a foreign person, of a person engaged in interstate commerce in the United States when, in the President's view, the foreign interest exercising control over that person might take action that threatens to impair the national security. In addition, section 721 authorizes the President to seek divestment or other appropriate relief in the case of concluded transactions.

§ 800.102 Effect on other laws.

Nothing in this part shall be construed to alter or affect any existing power, process, regulation, investigation, enforcement measure, or review provided by any other provision of law.

§ 800.103 Prior acquisitions.

Section 721 and the regulations in this part apply to acquisitions concluded on or after the effective date (as defined in § 800.207), including acquisitions concluded prior to issuance of these regulations. Section 721 and the regulations in this part do not apply to acquisitions concluded prior to the effective date.

§ 800.104 Transactions or devices for avoidance.

Any transaction(s) or other device(s) entered into or employed for the purpose of avoiding section 721 shall be disregarded, and section 721 and these rules shall be applied to the substance of the transaction(s).

Example. Corporation A is organized under the laws of a foreign state and is wholly owned and controlled by a foreign national. With a view towards avoiding possible application of section 721, Corporation A transfers money to a U.S. citizen, who, pursuant to informal arrangements with Corporation A and on its behalf, purchases all the shares in Corporation X, a corporation which is organized under the laws of a state of the United States, and which engages in business activities in the United States. That sham transaction is subject to section 721.

Subpart B—Definitions

§ 800.201 Acquisitions.

The term "acquisition" is used in these regulations to refer collectively to an acquisition, merger, or takeover. It includes, without limitation:

(a) The acquisition of a person by—

(1) The purchase of its voting securities,

(2) The conversion of its convertible voting securities,

(3) The acquisition of its convertible voting securities if that involves the acquisition of control, or

(4) The acquisition and the voting of proxies, if that involves the acquisition of control.

(b) The acquisition of a business, including any acquisition of production or research and development facilities operated prior to the acquisition as part of a business, if there will likely be a substantial use of

(1) The technology of that business, excluding technical information generally accompanying the sale of equipment, or

(2) Personnel previously employed by that business.

(c) A consolidation.

Example (relating to paragraph (b) of this section). Corporation A, organized under the laws of a foreign state and wholly owned and controlled by a foreign national, acquires, from separate United States nationals, (a) products held in inventory, (b) land, and (c) machinery for export. Corporation A has not acquired a business and has not made an acquisition within the meaning of these regulations.

§ 800.202 Affiliate.

An "affiliate" of an entity, as that term is used in §§ 800.205 and 800.402, is any other entity in the chain of ownership between a parent and that entity.

Example. Corporation P holds 50 percent of the voting securities of Corporations R and S. Corporation R holds 40 percent of the voting securities of Corporation X, and Corporation S holds 50 percent of the voting securities of Corporation Y. Under this definition, Corporation S is an affiliate of Corporation Y. (An entity can be both an affiliate and a parent.) Corporation R is not an affiliate of Corporation S or Y because it is not in the chain of ownership between Corporation P and Corporation Y. Corporation X is also not an affiliate of Corporation Y.

§ 800.203 Committee; Chairman of the Committee.

The term *Committee* means the Committee on Foreign Investment in the United States, as established in Executive Order No. 11858, 40 FR 20263, 3 CFR, 1971–1975 Comp., p. 990, as amended. The Chairman of the Committee is the Secretary of the Treasury.

§ 800.204 Control.

(a) The term *control* means the power, direct or indirect, whether or not exercised, and whether or not exercised or exercisable through the ownership of a majority or a dominant minority of the total outstanding voting securities of an issuer, or by proxy voting, contractual arrangements or other means, to determine, direct or decide matters affecting an entity; in particular, but without limitation, to determine, direct, take, reach or cause decisions regarding:

(1) The sale, lease, mortgage, pledge or other transfer of any or all of the principal assets of the entity, whether or not in the ordinary course of business;

(2) The dissolution of the entity;

(3) The closing and/or relocation of the production or research and development facilities of the entity;

(4) The termination or non-fulfillment of contracts of the entity; or

(5) The amendment of the Articles of Incorporation or constituent agreement of the entity with respect to the matters described at paragraph (a) (1) through (4) of this section.

(b) In examining questions of control in situations where more than one foreign person has an interest in a U.S. person, consideration will be given to factors such as whether the foreign persons are related and/or whether they have commitments to act in concert.

§ 800.205 Conversion.

The term *conversion* means the exercise of a right inherent in the ownership or holding of particular securities to exchange such securities for securities which currently entitle the owner or holder to vote for directors of the issuer or of any affiliate of the issuer.

§ 800.206 Convertible voting security.

The term *convertible voting security* means a security which currently does not entitle its owner or holder to vote for directors of any entity and which is convertible into a voting security. See §§ 800.201 and 800.302(c).

§ 800.207 Effective date.

The term *effective date* means August 23, 1988, the date section 721 became effective.

§ 800.208 Entity.

The term *entity* means any branch, partnership, associated group, association, estate, trust, corporation, division of a corporation, business enterprise, or other organization (whether or not organized under the laws of any State), and any government (including a foreign government, the United States Government, a State or local government, and any agency, corporation, financial institution, or other entity or instrumentality thereof, including a government sponsored agency).

§ 800.209 Foreign interest.

The term *foreign interest* means any foreign person, including a foreign government.

§ 800.210 Foreign national.

The term *foreign national* means any natural person other than a United States national.

§ 800.211 Foreign person.

The term *foreign person* means

(a) Any foreign national or

(b) Any entity over which control is exercised or exercisable by a foreign interest.

Example 1. Corporation A is organized under the laws of a foreign state and is engaged in business outside the United States. All its shares are held by Corporation X, which controls Corporation A. Corporation X is organized in the United States, and is wholly owned and controlled by U.S. nationals. Corporation A, although organized and operating outside the U.S., is not a "foreign person," and its acquisition of a U.S. person would not be subject to Section 721.

Example 2. Same facts as in the first two sentences of Example 1, except that Country A through governmental intervenors exercises full decision-making power over Corporation A, including the decisions described in § 800.204 (a) through (e). There is a foreign interest which is exercising control over Corporation A, which is a "foreign person."

Example 3. Corporation A is organized under the laws of a foreign state and is owned and controlled by a foreign national. Through a branch, Corporation A engages in business in the United States. Corporation A and/or its branch is a "foreign person" should Corporation A make an acquisition. Its branch business in the United States is also a "U.S. person" which may be the subject of an acquisition.

§ 800.212 Hold.

The terms *hold(s)* and *holding* mean legal or beneficial ownership, whether direct or indirect, through fiduciaries, agents or other means.

§ 800.213 Parent.

The term *parent*, as used in §§ 800.302 and 800.402, means a person who or which, directly or indirectly,

(a) Holds or will hold 50 percent or more of the outstanding voting securities of an entity; or

(b) In case of an entity that has no outstanding voting securities, holds or will hold the right to 50 percent or more of the profits of the entity, or has or will have the right in the event of the dissolution to 50 percent or more of the assets of the entity.

Example. Corporation P holds 50 percent of the voting securities of Corporations R and S. Corporation R holds 40 percent of the voting securities of Corporation X, and Corporation S holds 50 percent of the voting securities of Corporation Y. Corporation P is a parent of Corporations R, S and Y, but not of Corporation X. Corporation S is a parent of Corporation Y because it holds 50 percent of the voting securities of Corporation Y.

§ 800.214 A party or parties to an acquisition.

The terms *party to an acquisition* and *parties to an acquisition* mean:

(a) In the case of an acquisition of a person by the purchase of its voting securities, the person acquiring the voting securities, and the person issuing those voting securities;

(b) In the case of a merger, the surviving person, and the person or persons that lose its or their separate pre-merger identity;

(c) In the case of an acquisition of an entity or a business of an entity, the person acquiring or seeking to acquire that entity or business, and the person selling that entity or business;

(d) In the case of a consolidation, the entities being consolidated, and the new consolidated entity;

(e) In the case of a proxy solicitation, the person soliciting proxies, and the person who issued the voting securities.

§ 800.215 Person.

The term *person* means any natural person or entity.

§ 800.216 Section 721.

The term *Section 721* means section 721 of title VII of the Defense Production Act of 1950, 50 U.S.C. App. 2171, as added by section 5021 of the Omnibus Trade and Competitiveness Act of 1988, Public Law 100–418, 102 Stat. 1107.

§ 800.217 Solely for the purpose of investment.

(a) Voting securities are held or acquired "solely for the purpose of investment" if the person holding or acquiring such voting securities has no intention of determining or directing the basic business decisions of the issuer, including those at § 800.204(a) (1) through (5).

(b) Voting securities are not held solely for the purpose of investment if the person holding or acquiring such voting securities.

(1) Possesses or develops any purpose other than investment, or

(2) Takes any action inconsistent with acquiring or holding such securities solely for the purpose of investment.

§ 800.218 United States.

The term *United States* means the United States of America, the States of the United States, the District of Columbia, and any commonwealth, territory, dependency, or possession of the United States, and includes the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1131 (a)). For purposes of these regulations and their examples, an entity organized under the laws of the United States of America, one of the States, the District of Columbia, or a commonwealth, territory, dependency or possession of the United States, is an entity organized "in the United States."

§ 800.219 United States national.

The term *United States national* or *U.S. national* means a citizen of the United States or a natural person who, although not a citizen of the United States, owes permanent allegiance to the United States.

§ 800.220 United States person.

The term *U.S. person* or *United States person* means any natural person or entity but, in the case of the latter, only to the extent of its business activities in interstate commerce in the United States, irrespective of the nationality of the natural persons or entities which control it.

Example 1. Corporation A is organized under the laws of a foreign state and is wholly owned and controlled by a foreign national. It engages in business activities in a state of the U.S. through a branch office or subsidiary. That branch office or subsidiary of Corporation A is an "entity" and a "U.S. person." The branch office or subsidiary is also a foreign person under § 800.211.

Example 2. Same facts as in the first sentence of Example 1. Corporation A, however, does not have a branch office, subsidiary or fixed place of business in the United States. It exports and licenses technology to an unrelated company in the United States. Corporation A is not a "U.S. person."

Example 3. Corporation A is organized under the laws of a foreign state and is wholly owned and controlled by Corporation X. Corporation X is organized in the United States and is wholly owned and controlled by U.S. nationals. Corporation A does not have a branch office, subsidiary, or fixed place of business in the United States. It exports goods to Corporation X and to unrelated companies in the United States. The sale of Corporation A by Corporation X to a foreign person would not constitute an acquisition of a U.S. person for purposes of section 721.

§ 800.221 Voting securities.

The term *voting securities* means any securities which at present or upon conversion entitle the owner or holder thereof to vote for the election of directors of the issuer, or, with respect to unincorporated entities, individuals exercising similar functions.

Subpart C—Coverage

§ 800.301 Transactions that are acquisitions under Section 721.

(a) Section 721 applies to acquisitions:

(1) Proposed or pending on or after the effective date

(2) By or with foreign persons

(3) Which could result in foreign control of persons engaged in interstate commerce in the United States.

(b) Transactions that are acquisitions under section 721 include, without limitation:

(1) Proposed or completed acquisitions by or with foreign persons which could or did result in foreign control of a U.S. person, irrespective of the actual arrangements for control planned or in place for that particular acquisition.

Example 1. Corporation A, a foreign person, proposes to purchase all the shares in Corporation X, which is organized in the United States and engages in interstate commerce in the United States.

Under the applicable law, Corporation A will have the right to elect directors and appoint other primary officers of Corporation X, and those directors will have the right to reach decisions about the closing and relocation of particular production facilities, and the termination of contracts. They also will have the right to propose (for approval by Corporation A as a shareholder) the dissolution of Corporation X and the sale of its principal assets.

For purposes of section 721, the proposed acquisition of Corporation X by Corporation A would result in control of a U.S. person (Corporation X) by a foreign person (Corporation A).

Example 2. Same facts as in Example 1, except that Corporation A plans to retain the existing directors of Corporation X, all of whom are U.S. nationals.

Although, under these plans, Corporation A may not in fact exercise control over Corporation X (because the directors as U.S. nationals may exercise that control), the acquisition of Corporation X by Corporation A still would result in foreign control over a U.S. person for purposes of section 721.

(2) A proposed acquisition by or with a foreign person, which could result in foreign control of a U.S. person, including, without limitation, an offer to purchase all or a substantial portion of the securities of a U.S. person.

Example. Corporation A, a foreign person makes an offer to purchase all the shares in Corporation X, a U.S. person. That acquisition is "proposed" and subject to section 721.

(3) Proposed or completed acquisitions, even by entities organized in the United States, if those entities are "foreign persons," and if those acquisitions could or did result in a different foreign interest controlling the U.S. person to be acquired.

Example 1. Corporation X is organized and operates in the United States. Its shares are held by a foreign person. While Corporation X is a "U.S. person," it is also a "foreign person" within the meaning of section 721, because control over it is or could be exercised by a foreign person. Its acquisition of a U.S. person is subject to section 721 because that acquisition could result in control by Corporation X (a "foreign person") of a U.S. person.

Example 2. Same facts as Example 1, except that Corporation Y, a foreign person, seeks to acquire Corporation X from its existing shareholder. That proposed acquisition is subject to section 721 because it could result in control of Corporation X (in this context a "U.S. person") by a different foreign person (Corporation Y).

(4) Proposed or completed acquisitions by or with foreign persons which involve acquisitions of businesses and could or did result in foreign control of businesses located in the United States.

Example 1. Corporation A, a foreign person, proposes to buy a branch office business in the United States of Corporation X, which is a foreign person. For purposes of these regulations, the branch office business of Corporation X is a United States person to the extent of its business activities in the U.S., and the proposed acquisition of the business in question is subject to section 721.

Example 2. Corporation A, a foreign person, buys a branch office business located entirely outside the United States of Corporation Y, which is incorporated in the United States. The branch office business of Corporation Y is not deemed to be a United States person, and the acquisition is not subject to section 721.

Example 3. Corporation A, a foreign person, makes a start-up or "greenfield" investment in the United States. That investment involves such activities as separately arranging for the financing of and the construction of a plant to make a new product, buying supplies and inputs, hiring personnel, and purchasing the necessary technology. The investment may involve the acquisition of shares in a newly incorporated subsidiary. Corporation A will not have acquired the "business" of a U.S. person, and its greenfield investment is not subject to section 721.

(5) Joint ventures in which a United States person and a foreign person enter into contractual or other similar arrangements, including agreements on the establishment of a new entity, but only if a United States person contributes an existing identifiable business in the United States and a foreign interest would gain control over that existing business by means of the joint venture.

Example 1. Corporation A, a foreign person, and Corporation X, a United States person, form a separate corporation, JV Corp., to which Corporation X contributes an identifiable business in the United States. There is no foreign interest which does or could exercise control over Corporation X. Under the Articles of Incorporation of JV Corp. may elect a majority of the Board of Directors of JV Corp. The formation of JV Corp. could result in foreign control of a U.S. person and is an acquisition subject to section 721.

Example. 2. Same facts as in Example 1, except that Corporations A and X each own 50 percent of the shares of JV Corp. and, under the Articles of Incorporation of JV Corp. both A and X have veto power over all decisions by JV Corp. identified under § 800.204(a) (1) through (5). The formation of JV Corp. is not an acquisition subject to section 721.

Example. 3. Corporation A, a foreign person, and Corporation X, a United States person, form a separate corporation, JV Corp., to which Corporation A contributes funding and managerial and technical personnel, while Corporation X contributes certain patents and equipment that do not under these circumstances constitute an identifiable business. The formation of JV Corp. is not an acquisition subject to section 721.

§ 800.302 Transactions that are not acquisitions under Section 721.

The following transactions are not considered acquisitions for purposes of section 721:

(a) An acquisition of voting securities pursuant to a stock split or pro rata stock dividend which does not involve a change in control.

(b) An acquisition in which the parent of the entity making the acquisition is the same as the parent of the entity being acquired.

Example. Corporation A, a foreign person, merges its two wholly owned U.S. subsidiaries S1 and S2, and in addition creates a new U.S. subsidiary, S3. S3 then buys a business from S4, another wholly-owned U.S. subsidiary of Corporation A. These acquisitions are not subject to section 721.

(c) An acquisition of convertible voting securities that does not involve control.

Example. Corporation A, a foreign person, buys debentures, options and warrants of Corporation X, a U.S. person. By their terms, the debentures are convertible into common stock, and the options and warrants can be exercised for common stock. The acquisition of those debentures, options and warrants is not subject to section 721 so long as it does not involve control. The conversion of those debentures into common stock, or the exchange of those options and warrants for common stock, may be an acquisition for purposes of section 721. See § 800.201.

(d) A purchase of voting securities or comparable interests in a United States person solely for the purpose of investment, as defined in § 800.217, if, as a result of the acquisition,

(1) The foreign person would hold ten percent or less of the outstanding voting securities of the U.S. person, regardless of the dollar value of the voting securities so acquired or held, or

(2) The purchase is made directly by a bank, trust company, insurance company, investment, company, pension

fund, employee benefit plan, mutual fund, finance company or brokerage company in the ordinary course of business for its own account, provided that a significant portion of that business does not involve the acquisition of entities.

Example 1. In an open market purchase solely for the purpose of investment, Corporation A, a foreign person, acquires 7 percent of the voting securities of Corporation X, which is incorporated under the laws of the United States. The acquisition of those securities is not subject to section 721.

Example 2. Same facts as Example 1 except Corporation A is an investment company which makes only portfolio investments. It purchases 14 percent of the voting securities of Corporation X for its own account, solely for the purpose of investment. The acquisition of those securities is not subject to section 721.

Example 3. Same facts as Example 2 except that a significant portion of the business of Corporation A is acquiring control over corporations. Its purchase of 14 percent of the shares of Corporation X is subject to section 721.

(e) An acquisition of assets in the United States that does not constitute a business in the United States. See §§ 800.201 and 800.301(b)(4).

Example 1. Corporation A, a foreign person, acquires, from separate United States nationals, (a) products held in inventory, (b) land, and (c) machinery for export. Corporation A has not acquired a "business" within the meaning of section 721.

Example 2. Corporation X produces armored personnel carriers in the United States. Corporation A, a foreign person, seeks to acquire the annual production of those carriers from Corporation X under a long-term contract. Neither the proposed acquisition of those carriers, nor the actual acquisition, is subject to section 721.

Example 3. Same facts as Example 2, except that Corporation X, a U.S. person, has developed important technology in connection with the production of armored personnel carriers. Corporation A seeks to negotiate an agreement under which it would be licensed to manufacture using that technology. Neither the proposed acquisition of technology pursuant to that license agreement, nor the actual acquisition, is subject to section 721.

Example 4. Same facts as Example 2, except that Corporation A enters into a contractual arrangement to acquire the entire armored personnel carrier business of Corporation X, including production facilities, customer lists, technology and staff. This acquisition is subject to section 721. See § 800.201.

(f) An acquisition of securities by a person acting as a securities underwriter, in the ordinary course of business, and in the process of underwriting.

(g) An acquisition pursuant to a condition in a contract of insurance relating to fidelity, surety, or casualty obligations if the contract was made by an insurer in the ordinary course of business.

(h) An acquisition of a security interest, but not control, in the voting securities or assets of a U.S. person at the time a loan or other financing is extended (see § 800.303).

(i) An acquisition of voting securities or assets that does not involve an acquisition of control of a person engaged in interstate commerce in the United States.

Example 1. Corporation A, which is organized under the laws of a foreign state and is controlled by foreign persons, advises the Committee that it intends to acquire seven percent of the voting securities of Corporation X, which is organized under the laws of the United States and engaged in interstate commerce within the United States. In this particular case, Corporation A's purchase of this interest in Corporation X would not be sufficient to permit Corporation A to control Corporation X for purposes of § 800.204. This transaction is not an acquisition for purposes of section 721.

Example 2. Corporation A, which is organized under the laws of a foreign state and controlled by foreign persons, acquires from Corporation B 100 percent of the voting securities of Corporation X, a wholly-owned subsidiary of Corporation B that is organized under the laws of the United States. Corporation X currently has no employees, plants, equipment or subsidiaries in the United States. Corporation B maintains records in the United States on behalf of Corporation X and uses U.S. mail and telecommunications facilities on its behalf. For purposes of section 721, Corporation X is not engaged in interstate commerce in the United States, and the acquisition by Corporation A of securities of Corporation X is not an acquisition for purposes of section 721.

§ 800.303 Lending transactions.

(a) The extension of a loan or similar financing by a foreign person to a U.S. person, accompanied by the creation in the foreign person of a secured interest in securities or other assets of the U.S. person, does not, by itself, subject the transaction to section 721. However, if control is acquired by the foreign person at the time the loan or other financing is extended, then the transaction may be subject to section 721.

(1) The Committee will not, at the time of extension of the loan or other financing, accept notices from parties to a loan or other financing transaction in which control is not acquired by the foreign person at that time.

(2) The Committee will accept notices concerning transactions that involve loans or financing by foreign persons where, because of imminent or actual default or other condition, there is a significant possibility that the foreign person may obtain control of the U.S. person.

(3) For purposes of this section, in determining whether an acquisition of a U.S. person by a foreign person results in foreign control under section 721, the Committee will take into account arrangements which the foreign person might establish to transfer day-to-day control over the U.S. person to U.S. nationals.

(b) Control will not be deemed to be acquired for purposes of section 721 in cases involving an acquisition of voting securities or assets of a U.S. person by a foreign person upon default, or other condition, involving a loan or other financing, provided that the loan was made by a syndicate of banks in a loan participation where the foreign lender (or lenders) in the syndicate.

(1) Needs the majority consent of the U.S. participants in the syndicate to take action, and cannot on its own initiate any action vis-a-vis the debtor; or

(2) Does not have a lead role in the syndicate, and is subject to a provision in the loan or financing documents limiting its influence, ownership or control of the debtor such that control for purposes of § 800.204 could not be acquired.

Subpart D—Notice

§ 800.401 Procedures for notice.

(a) A party or the parties to an acquisition subject to section 721 may submit a voluntary notice to the Committee of the proposed or completed acquisition by sending ten copies of the information set out in § 800.402 to the Staff Chairman of the Committee on Foreign Investment in the United States (hereinafter "Staff Chairman"), Office of International Investment, room 5100, Department of the Treasury, 15th Street and Pennsylvania Avenue, NW., Washington, DC 20220.

(b) Any member of the Committee may submit an agency notice of a proposed or completed acquisition to the Committee through its Staff Chairman if that member has reason to believe, based on facts then available, that the acquisition is subject to section 721 and may have adverse impacts on the national security. In the event of agency notice, the Committee will promptly furnish the parties to the acquisition with written advice of such notice.

(c) No agency notice, or review or investigation by the Committee, shall be made with respect to a transaction more than three years after the date of conclusion of the transaction, unless the Chairman of the Committee, in consultation with other members of the Committee, requests an investigation.

(d) No communications other than those described in paragraphs (a) and (b), and (c) of this section shall

constitute notice for purposes of section 721.

§ 800.402 Contents of voluntary notice.

(a) If the parties to an acquisition jointly submit a voluntary notice, they shall provide in detail the information set out in this section, which must be accurate and complete with respect to all parties. All parties shall sign a joint notice.

(b) If fewer than all the parties to an acquisition submit a voluntary notice,

(1) Each notifying party shall provide the information set out in this section with respect to itself and, to the extent known or reasonably available to it, with respect to each non-notifying party.

(2) The Staff Chairman may delay acceptance of the notice, and the beginning of the thirty-day review period, in order to obtain any information set forth under this section that has not been submitted by the notifying party. Where necessary to obtain such information, the Staff Chairman may inform the non-notifying party or parties that notice has been initiated with respect to a proposed transaction involving the party, and request that certain information set forth in this section, as specified by the Staff Chairman, be forwarded to the Committee within seven days after such request by the Staff Chairman.

(c) A voluntary notice submitted pursuant to § 800.401(a) shall describe:

(1) The transaction in question, including

(i) A summary setting forth the essentials of the transaction;

(ii) The nature of the transaction, *e.g.*, whether the acquisition is by merger, consolidation, the purchase of voting securities, or otherwise;

(iii) The name, United States address (if any), and address of the principal place of business of the foreign person making the acquisition;

(iv) The name and address of the U.S. person being acquired;

(v) The name, address and nationality of the parent, if any, of the foreign person making the acquisition, and of each affiliate of that person;

(vi) The name, address and nationality of the persons or interests that will control the U.S. person being acquired; and

(vii) The expected date for concluding the transaction, or the date it was concluded.

(2) The assets of the U.S. person being acquired (to be described only for an acquisition of an entity structured as an acquisition of assets or a business).

(3) With respect to the U.S. person being acquired, and any entity of which it is a parent that is also being acquired:

(i) The business activities of each of them, as, for example, set forth in annual reports, and the product lines of each;

(ii) The street address (or mailing address, if different) within the United States of the facilities of each of them, which are manufacturing classified or unclassified products or producing services described in subparagraph (v) below, and their respective Commercial and Government Entity Code (CAGE Code), if any, assigned by the Department of Defense;

(iii) Except as may be identified in paragraph (c)(3)(iv) of this section, each contract (identified by agency and number), which is currently in effect, or was in effect within the past three years, with an agency of the Government of the United States with national defense responsibilities, including any component of the Department of Defense, and the name, office, and telephone number of the contracting official;

(iv) Each contract (identified by agency and number), which is currently in effect or was in effect within the past five years, with any agency of the Government of the United States involving any information, technology or data, which is classified under Executive Order 12356 of April 2, 1982, and the name, office, and telephone number of the contracting official;

(v) Any products or services (including research and development) of each of them with respect to which

(A) It is a supplier to any of the military services of the United States or the Department of Defense, and, to the knowledge of the parties submitting notice, to what extent the U.S. person is a sole-source supplier of the Department of Defense's needs for a particular product or service; or

(B) It has technology which has military applications.

(4) Whether the U.S. person being acquired produces:

(i) Products or technical data subject to validated licenses or under General License GTDR pursuant to the U.S. Export Administration Regulations (15 CFR parts 768–799); if applicable, the relevant Commodity Control List number shall be provided and the technical data shall be described; and

(ii) Defense articles and defense services under the International Traffic in Arms Regulations (22 CFR subchapter M).

(5) With respect to the foreign person:

(i) The business or businesses of the foreign person making the acquisition, and of its parent and any affiliates, as described, for example, in annual reports. Provide CAGE codes, if any, for such facilities; and

(ii) The plans of the foreign person for the U.S. person with respect to:

(A) Reducing, eliminating or selling research and development facilities,

(B) Changing product quality,

(C) Shutting down or moving offshore facilities which are within the United States,

(D) Consolidating or selling product lines or technology, or

(E) Modifying or terminating contracts referred to in paragraphs (b)(3) (iii) and (iv) of this section for defense-related goods or services or for goods and services otherwise affecting national security.

(d) The voluntary notice shall list any filings with or reports to agencies of the United States Government which have been or will be made in respect of the acquisition prior to its closing indicating the agencies concerned, the nature of the filing or report, the date by which it was filed or the estimated date by which it will be filed, and a relevant telephone number and/or contact point within the agency, if known.

Example. Corporation A, a foreign person, intends to acquire Corporation X, which is wholly owned and controlled by a U.S. national, and which has a Facility Security Clearance under the Department of Defense Industrial Security Program. See Department of Defense, "Industrial Security Regulation," DOD 5220.22–R, and "Industrial Security Manual for Safeguarding Classified Information," DOD 5220.22–M. Corporation X accordingly files a revised Form DD 441s, and enters into discussions with the Defense Investigative Service about effectively insulating its facilities from the foreign interest.

Paragraph (d) requires that certain specific information about these steps be reported to the Committee in a voluntary notice.

(e) In the case of a joint venture subject to section 721, information for the voluntary notice shall be prepared on the assumption that the foreign person which is party to the joint venture has made an acquisition of the business or businesses that the U.S. person which is a party to the joint venture is contributing or transferring to the joint venture. In addition, the voluntary notice shall describe the name and address of the joint venture or other corporation.

(f) In the case of acquisitions of some but not all of the businesses or assets of a U.S. person, § 800.402(c) only requires submission of the specified information with respect to the business or assets that have been or are proposed to be acquired.

(g) Persons filing a voluntary notice shall, in respect of the foreign person making the acquisition, its parent and affiliates, the U.S. person being acquired, and each entity of which it is a parent, append to the voluntary notice

the most recent annual report of each such entity, if available. Separate reports are not required for any entity whose financial results are included within the consolidated financial results stated in the annual report of any direct or indirect parent of any such entity.

(h) Persons filing a voluntary notice shall, during the time that the matter is pending before the Committee or the President, promptly advise the Staff Chairman of any material changes in plans or information provided to the Committee. See also § 800.701(a).

§ 800.403 Treatment of certain voluntary notices.

The Committee, acting through the Staff Chairman, may

(a) Reject voluntary notices not complying with § 800.402;

(b) Delay the beginning of the thirty-day review period until information specified in § 800.402 has been furnished to the Committee;

(c) Reject any voluntary notice at any time if, after the notice has been submitted and before action by the Committee or the President has been concluded, there is a material change in the transaction as to which notification has been made; and

(d) Notify the party submitting a voluntary notice that an analysis of national security considerations will not be undertaken in cases where the Committee has found that a transaction presented is not subject to section 721.

Example 1. The Staff Chairman receives a joint filing by Corporation A, a foreign person, and Corporation X, a company that is owned and controlled by U.S. nationals, with respect to Corporation A's intent to purchase all of the shares of Corporation X. The joint filing does not contain any information described under § 800.402(c)(3) (iv) and (v) concerning classified materials and products or services supplied to the U.S. military services. The Staff Chairman may (1) reject the filing, or (2) delay the start of the thirty-day review period while the parties are asked to supply the omitted information.

Example 2. Same facts as in first sentence of Example 1, except that the joint filing indicates that Corporation A does not intend to purchase Corporation X's Division Y, which is engaged in classified work for a U.S. Government agency. Corporations A and X notify the Committee on the 25th day of the 30-day notice period that Division Y will also be acquired by Corporation A. This fact constitutes a material change with respect to the transaction as originally notified, and the Staff Chairman may reject the notice.

Example 3. The Staff Chairman receives a joint filing by Corporation A, a foreign person, and Corporation X, a company that is owned and controlled by U.S. nationals, indicating that Corporation A intends to purchase 10.5 percent of the voting securities of Corporation X. Under the particular facts and circumstances presented, the Committee concluded that Corporation A's purchase of this interest in Corporation X would not constitute control as defined in § 800.204. The Staff Chairman may advise the parties in writing that the transaction as presented is not subject to section 721 and that no analysis of national security considerations has been undertaken.

§ 800.404 Beginning of thirty-day review period.

(a) A thirty-day period for review of the acquisition shall be deemed to commence on the next calendar day after voluntary notice has been accepted, agency notice has been received by the Staff Chairman of the Committee, or the Chairman of the Committee has requested an investigation pursuant to § 800.401. Such review shall end no later than the thirtieth day after it has commenced, or if the thirtieth day is not a business day, no later than the next business day after the thirtieth day.

(b) Within two business days after its receipt by the Staff Chairman, the Staff Chairman of the Committee shall send written advice of an agency notice to the parties to an acquisition.

Subpart E—Committee Procedures: Review and Investigation

§ 800.501 General.

(a) The Committee's review or investigation (if it has been determined that an investigation shall be conducted) shall examine, as appropriate, whether:

(1) The acquisition is by or with a foreign person and could result in control by a foreign person of a U.S. person or persons engaged in interstate commerce in the United States;

(2) There is credible evidence to support a belief that the foreign interest exercising control of the U.S. person to be acquired might take action that threatens to impair the national security; and

(3) Provisions of law, other than section 721 and the International Emergency Economic Powers Act (50 U.S.C. 1701–1706), provide adequate and appropriate authority to protect the national security.

(b) During the thirty-day review period or during an investigation, the Staff Chairman may invite the parties to a notified transaction to attend a meeting with the Committee staff to discuss and clarify issues pertaining to the transaction. During an investigation, a party to the investigated transaction may request a meeting with the Committee staff; such a request ordinarily will be granted.

§ 800.502 Determination not to investigate.

(a) If the Committee determines, during the review period described in § 800.404, not to undertake an investigation, such determination shall conclude action under section 721.

(b) The Staff Chairman of the Committee shall promptly advise the parties to an acquisition of a determination not to investigate.

§ 800.503 Commencement of investigation.

(a) If it is determined that an investigation should be undertaken, such investigation shall commence no later than the end of the thirty-day period described in § 800.404.

(b) The Staff Chairman of the Committee shall promptly send written advice to the parties to an acquisition of the commencement of an investigation.

§ 800.504 Completion or termination of investigation and report to the President.

(a) The Committee shall complete its investigation no later than the forty-fifth day after the date the investigation commences, or, if the forty-fifth day is not a business day, no later than the next business day after the forty-fifth day.

(b) Upon completion or termination of any investigation, the Committee shall report to the President and present a recommendation. Any such report shall include information relevant to subparagraphs (d) (1) and (2) of section 721. If the Committee is unable to reach a unanimous recommendation, the Chairman shall submit a report of the Committee to the President setting forth the differing views and presenting the issues for decision.

§ 800.505. Withdrawal of notice.

(a) A party to an acquisition that has submitted notice under § 800.401(a), or, if more than one such party has submitted notice, the parties to an acquisition, may, at any time prior to an announcement by the President of his decision as described in § 800.601, request in writing that such notice(s) be withdrawn. Such request shall be directed to the Staff Chairman and shall state the reasons why the request is being made. Such requests will ordinarily be granted, except as determined by the Committee. A written notification of the decision on the request to withdraw notice shall be sent promptly to the requester(s).

(b) Any withdrawal in writing of an agency notice by the agency that submitted it shall be effective on its receipt by the Staff Chairman, who shall promptly send notice of the withdrawal to the parties to an acquisition.

(c) In any case where a request to withdraw notice is granted under paragraph (a), or where the withdrawal

is effective under paragraph (b) of this section, or where notice has been rejected under § 800.403, such notice shall be considered not to have been made for purposes of § 800.401. Section 800.702 shall nevertheless apply with respect to information or documentary material filed with the Committee. With respect to any subsequent acquisition among the parties that is within this Part, notice made in accordance with § 800.401 shall be deemed a new notice for purposes of these regulations, including § 800.601.

Subpart F—Presidential Action

§ 800.601 Statutory time frame, standards for Presidential action, and permissible actions under section 721.

(a) The President shall announce his decision to take action pursuant to section 721 no later than the fifteenth day after an investigation is completed, or, if the fifteenth day is not a business day, no later than the next business day following the fifteenth day.

(b) The President may exercise the authority conferred by section 721(c) if the President makes the findings required by section 721(d), namely, that—

(1) There is credible evidence that leads the President to believe that the foreign interest exercising control might take action that threatens to impair the national security, and

(2) Provisions of law, other than section 721 and the International Emergency Economic Powers Act (50 U.S.C. 1701–1706), do not in the President's judgment provide adequate and appropriate authority for the President to protect the national security in the matter before the President.

The President's findings under section 721(d) shall not be subject to judicial review.

(c) Under section 721 (c) and (d), the President:

(1) Is empowered to take such action for such time as the President considers appropriate to suspend or prohibit any acquisition subject to section 721 that is the subject of a recommendation or recommendations by the Committee; and

(2) Is empowered to direct the Attorney General to seek appropriate relief, including divestment relief, in the district courts of the United States in order to implement and enforce section 721.

(d) All authority available to the President under section 721(c), including divestment authority, shall remain available at the discretion of the President in respect of acquisitions which have been concluded at any time on or after the effective date, but only if the purpose for which divestment or other appropriate relief is sought is based on facts, conditions, or circumstances existing at the time the transaction was concluded. Such authority shall not be exercised if:

(1) The Committee, through its Staff Chairman, has in writing advised a party (or the parties) that a particular transaction, with respect to which voluntary notice was attempted, was not subject to section 721;

(2) The Committee has previously determined under § 800.502 not to undertake an investigation of the acquisition when proposed, pending, or completed; or

(3) The President has previously determined not to exercise his authority under section 721 with respect to that acquisition.

(e) Notwithstanding any other provision in these regulations, in any case where the parties to an acquisition submitted false or misleading material information to the Committee, or omitted material information, including relevant information that was supplied in response to provisions of § 800.402; that was requested specifically by the Committee in the course of review, investigation, or Presidential determination; or that was actually provided by a party, in addition to such other penalties as may be provided by law,

(1) The Committee may reopen its review or investigation of the transaction, and revise any recommendation or recommendations submitted to the President;

(2) Any Committee member may submit or resubmit an agency notice under § 800.401, to begin anew the process of review and investigation; and/or

(3) The President may take such action for such time as the President deems appropriate in respect of the acquisition, and may revise actions earlier taken.

(f) The Committee will generally not consider as material minor inaccuracies, omissions, or changes relating to financial or commercial factors not having a bearing on national security.

Example 1. Corporation A, a foreign person, states in its joint filing with Corporation X, a U.S.-controlled person, that Corporation A will acquire all of the shares of Corporation X at $100 per share on July 31, 1991. For commercial reasons, the acquisition in fact takes place on August 31 of the same year, and the actual price paid per share is $150. The Committee would not regard these factors alone as reason to set aside a prior decision by the Committee not to investigate the proposed transaction.

Example 2. Same facts as stated in sentence one of Example 1, except that the joint filing of Corporations A and X also states, in responding to section 800.402(b)(3)(iv), that Corporation X has no contracts involving classified information. In fact, Corporation X has classified contracts with the Department of Defense. The statement would be considered false and could lead to action by the Committee under paragraph (e) of this section.

(g) Divestment or other relief under section 721 shall not be available with respect to transactions that were concluded prior to the effective date.

Subpart G—Provision and Handling of Information

§ 800.701 Obligation of parties to provide information.

(a) Parties to a transaction which is notified under subpart D shall provide information to the Staff Chairman of the Committee that will enable the Committee to conduct a full review and/or investigation of the proposed transaction, and shall promptly advise the Staff Chairman of any changes in plans or information pursuant to § 800.402(h). See, generally, 50 U.S.C. app. 2155(a) for authorities available to the Committee for obtaining information.

(b) Documentary materials or information required or requested to be submitted under this part shall be submitted in English. Supplementary materials, such as annual reports, written in a foreign language, shall be submitted in certified English translation, at the request of the Committee.

§ 800.702 Confidentiality.

(a) Section 721(h) provides that any information or documentary material filed with the Committee pursuant to these regulations shall be exempt from disclosure under section 552 of title 5, United States Code, and no such information or documentary material may be made public, except as may be relevant to any administrative or judicial action or proceeding. Nothing in section 721 shall be construed to prevent disclosure to either House of Congress or to any duly authorized committee or subcommittee of the Congress.

(b) The provisions of 50 U.S.C. app. 2155(e) relating to fines and imprisonment shall apply in respect of disclosure of information or documentary material filed with the Committee under these regulations.

Appendix to Part 800—Preamble to Regulations on Mergers, Acquisition, and Takeovers by Foreign Persons (Published November 21, 1991.)

Note: For the convenience of the reader, this appendix contains the text of the

preamble to the final regulations on mergers, acquisitions and takeovers by foreign persons beginning at the heading "Discussion of Final Rule" and ending before "List of Subjects in 31 CFR Part 800" (56 FR [Insert FR Page Citations]; November 21, 1991).

Dated: November 15, 1991.

Olin L. Wethington,

Assistant Secretary (International Affairs).

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Thursday
November 21, 1991

Part VI

Department of the Interior

National Park Service

36 CFR Part 62

National Natural Landmarks Program; Proposed Rule

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 62

RIN 1024-AB96

National Natural Landmarks Program

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rulemaking will revise the current regulations for the National Natural Landmarks Program. Proposed changes include strengthening and clarifying procedures for owner notification, adding a requirement for voluntary owner consent for natural landmark designation, and providing for review of natural landmark nominations by the National Park System Advisory Board. The intended effect of these actions is to ensure that owners of sites under consideration for possible national natural landmark designation are fully notified in advance of such consideration and have the opportunity to comment on these proposals; that the National Park System Advisory Board will review all future national natural landmark nominations and provide recommendations to the Secretary as to their qualifications for designation; and that sites are not designated by the Secretary unless all owners involved have indicated their consent to such designation.

DATES: Written comments or suggestions will be accepted until February 19, 1992.

ADDRESSES: Comments should be directed to: Director, National Park Service, P.O. Box 37127, Washington, DC 20013-7127.

FOR FURTHER INFORMATION CONTACT: Anne Frondorf, Wildlife and Vegetation Division, National Park Service, Washington, DC 20013-7127. Telephone: (202) 343-8129.

SUPPLEMENTARY INFORMATION:

Background

The National Natural Landmarks (NNL) Program was established by the Secretary of the Interior in 1962, under authority of the Historic Sites Act of 1935 (16 U.S.C. 461 *et seq*) to identify and encourage the preservation of the full range of geological and ecological features that are determined to represent nationally significant examples of the Nation's natural heritage. Potential natural landmarks are identified through studies conducted by the National Park Service (NPS) and other sources, evaluated by expert natural scientists, and, if determined nationally significant, designated as landmarks by the Secretary of the Interior. Once a landmark is designated, it is included on the National Registry of Natural Landmarks, which currently lists 587 national natural landmarks nationwide.

The National Registry of Natural Landmarks includes nationally significant geological and ecological features in 48 States, American Samoa, Guam, Puerto Rico, and the Virgin Islands. Of the 587 landmarks currently listed on the Registry, approximately one-half are administered solely by public agencies, i.e., Federal, State, county, or municipal governments. Nearly one-third are owned entirely by private parties. The remaining natural landmarks are owned or administered by a mixture of public and private owners. Because many natural landmarks are privately owned and/or not managed for public access, owner permission must be obtained prior to visitation. Designation in no way infers any right of public access.

National natural landmark designation is not a land withdrawal, does not change the ownership of a site, and does not dictate activity. However, Federal agencies should consider the unique properties of these nationally significant areas in completing compliance under the National Environmental Policy Act (42 U.S.C. 4321 *et seq*), there may be State or local planning or land use implications, and the Secretary is required to provide an annual report to the Congress on damaged or threatened NNLs (Section 8 of the National Park System General Authorities Act of 1970 (90 Stat. 1940) as amended, (16 U.S.C. 1a-5).

It is an objective of the program that natural landmark preservation is made possible through the long-term, voluntary commitment of public and private owners to protect an area's outstanding values. In revising the regulations for the program, the NPS seeks to balance two fundamental goals: Identifying and encouraging the preservation of nationally significant examples of the Nation's natural heritage and ensuring that owner interests are fully acknowledged and respected at all times.

Discussion

Within the last two years, significant interest in the program regulations and operating procedures has been expressed centering on three major issues: (1) Notification of owners, and other concerned individuals and organizations, that areas were under consideration for possible national natural landmark designation; (2) owner consent for designation of property as a national natural landmark; and (3) effects of national natural landmark designation on property. Each of these issues will be discussed in turn below, and addressed in the proposed revised regulations.

From 1962 through 1979, no program regulations existed. Existing program regulations (36 CFR Part 62) were published in 1980. Current regulations include provisions for owner notification at three stages in the consideration process: (1) Prior to on-site evaluation, (2) after it is determined that the site appears to qualify for natural landmark designation, and (3) following designation.

In response to concerns that owners be appropriately notified that their property is under consideration, the proposed rule includes several new provisions to strengthen and clarify owner notification procedures. These include allowing 120 days (as compared to 60 days in the current regulations) for owners and other interested individuals to comment when it is determined an area appears to qualify for national natural landmark designation (i.e., the second stage in the notification process); (2) providing for additional notification prior to the on-site evaluation in cases of areas with 50 or more owners, by requiring NPS to notify the owners directly in writing, to also publish a general notice in one or more newspapers in the area, and to also hold a public meeting in the area, if requested by local officials; and (3) making all owner notification requirements the explicit and non-delegable responsibility of the NPS.

In addition, requirements for NPS to notify owners of designated NNLs and to request their permission to visit their property for the purpose of monitoring these areas for the Section 8 Report to Congress on damaged and threatened NNLs (16 U.S.C. 1a-5); to notify owners when an area is proposed to be listed as damaged or threatened in the Section 8 Report; and to provide an opportunity for owners and other interested organizations and individuals to comment on the draft Report have been added. A requirement for NPS to notify owners, after review of the on-site evaluation report, when it is determined that an area does not appear to qualify for national natural landmark designation has also been added. Explicit provisions that NPS or its representatives in conducting a natural region study, or any outside individual or organization in suggesting an area for NPS' consideration, will not enter onto lands without receiving permission from

the owners of those lands have also been added. In addition, a requirement has been added that NPS will not consider any information provided by outside sources suggesting an area for consideration, where such information was obtained by entry onto lands without owner permission. Finally, an explicit provision has been included that any individual, agency, or organization acting as NPS' representative in carrying out National Natural Landmarks Program activities shall be required to follow these regulations.

Although it has been the NPS policy over the last several years to not consider areas for possible NNL designation where owners have indicated their objection, this policy is not explicitly included in the existing regulations. Therefore, the proposed rule includes a requirement that, in order for an area to be designated as a NNL, all owners must have indicated (in writing) their consent to designation.

The proposed revision of these regulations is part of an overall effort by the NPS to systematically review the operation of the NNL program. Effective November 28, 1989, the Director of the NPS has instituted a moratorium on the NNL program, such that the NPS is not currently taking actions relating to the consideration of new sites for possible NNL designation. This moratorium will remain in effect until the necessary improvements to the program, and particularly the revision of the program regulations, have been completed.

Actions intended to improve the operation of the NNL program include the development of a program procedures handbook which will provide detailed guidance on program operating procedures. Other actions are described in the following paragraphs.

In addition, as required in section 1211 of Public Law 101–628, the National Park System Advisory Board will review all future NNL nominations and make recommendations to the Secretary. Advance public notice will be given of Advisory Board meetings and interested individuals and organizations will be provided the opportunity to provide written comments and recommendations to the Advisory Board, and to attend Advisory Board meetings.

The NPS has an affirmative responsibility to maintain information on nationally significant resources, and to make such information available, as required under the National Environmental Policy Act (42 U.S.C. 4321 *et seq*), for planning and environmental review purposes. Therefore, the proposed rule includes a provision that NPS will maintain information on areas that are considered to meet the scientific criteria for national significance, but which have not been designated because of lack of owner consent. In addition, NPS may continue to evaluate the possible national significance of sites, using available information and without entering onto land without permission, even where owners may have indicated their objection to NNL designation of their property.

In response to concerns raised that the effects of NNL designation on property have not been adequately described to owners, provisions have been added in the proposed rule to describe the effects of natural landmark designation and provide this information to owners and other interested individuals and organizations at two points in the designation process.

Some individuals have also expressed concern that NNL designation of an area is a precursor to federal acquisition as part of establishment of a national park. It is the policy of the NPS that NNL designation is an alternative method for recognizing and encouraging the preservation of nationally significant areas, not a first step for adding new units to the National Park System. In considering a possible new addition to the National Park System, the NPS must first determine that an area is nationally significant. While prior designation as an NNL is one indication of national significance, there are several other criteria which must be met before the NPS can support a proposal for a new national park. In addition, the Congress must authorize and then appropriate funds for acquisition of any new National Park System Units, or for the expansion of existing units. To date, of the 587 designated NNLs, 15 (about 2.5%) have subsequently been incorporated into 12 national park units. Six of these 15 areas were already in federal ownership at the time of NNL designation.

The NPS is also undertaking a national effort to corroborate the names and addresses of current owners of all designated NNLs, and to contact these owners in writing to inform them of the status of their property, to explain the objectives of the NNL program and the effects of NNL designation, and to inform them of the procedures through which the NNL designation may be removed from their property, in accordance with applicable procedures for designation removal as described in the proposed rule.

Because of NPS' interest in ensuring that affected owners are fully informed of the status of their property with regard to the NNL designation process, that permission is obtained from owners prior to entering onto their land, and that no inappropriately obtained information is utilized in the designation process, the NPS is undertaking the following additional steps.

First, provisions have been added stating that, in considering an area for possible national natural landmark designation, the NPS will not consider any information that was obtained by entry onto lands without owner permission.

The NPS will also undertake a review of existing files on all non-designated areas, including potential sites under consideration for possible future designation and inactive sites which have been determined not eligible for NNL designation, to identify any information that was obtained by entering onto lands without the owner's permission. Should such information be found, the NPS would not use this information in any future consideration of these areas for possible national natural landmark designation.

During the 90-day public comment period for the proposed rule, NNL program site files will be made available, at no charge, for review in person by the public on a by-appointment basis. Review of files will be conducted under the oversight of NPS personnel during regular working hours. Individuals wishing to duplicate materials will be charged an appropriate fee for duplication, unless exempt from such fees under applicable criteria of the Freedom of Information Act.

Also during this 90-day comment period, anyone may request the NPS to provide a copy of all or selected information from specified individual site files. This information will be provided for an appropriate fee for duplication, unless exempt from such fees under applicable criteria of the Freedom of Information Act.

Finally, anyone may, at any time, request information from NPS files as prescribed under the Freedom of Information Act.

In response to significant public interest in the operation of the NNL program, and particularly the three issues discussed above, the NPS issued an Advance Notice of Proposed Rulemaking in the **Federal Register** (55 FR 43384, October 29, 1990). The comments received focused, in general, on the major issues described above.

Several commenters stressed the need for advance notification of all owners that property was under consideration; owner consent for NNL designation; and a full explanation of the effects of NNL designation, including possible takings implications as described under

Executive Order 12630 and the relationship of NNL designation to national park establishment. Some commenters wanted NPS to remove all materials from site files where there is indication owners were not notified in advance of NNL consideration; commenters also wanted NPS to cease all consideration of properties where owners have indicated their objection to NNL consideration. Some commenters also noted that all affected owners should be notified of this proposed rulemaking.

Other commenters stressed the importance of NPS' role in maintaining information on nationally significant natural resources; supported the continuation of the NNL consideration process (without entry onto land without permission), even where owners have indicated objection; and recommend the maintenance of a listing of sites scientifically determined to be nationally significant, but not designated as NNLs because of lack of owner agreement.

With regard to the public hearings planned for the public comment period on this proposed rulemaking, some commenters requested that all affected owners, of designated and non-designated sites, receive notice of such hearings. In two cases, commenters requested that public hearings be held in addition, or as alternatives, to locations identified in the proposed notice: Cutler Coastline area of Maine, as opposed to Bangor, Maine, and Midland, Texas, as opposed to Albuquerque, New Mexico. After consideration of these requests, the NPS has elected to hold hearings in Bangor and Albuquerque, for the reason these locations are judged more broadly accessible to all interested persons in those geographic regions. One commenter requested that an additional hearing be held in the State of Alaska. The NPS has considered this request and has elected not to hold a public hearing in the State of Alaska. However, should additional public interest in Alaska in the proposed rulemaking be indicated, the NPS Alaska Regional Office will provide an opportunity for a public meeting in Anchorage on the NNL program and the proposed rulemaking.

All comments received in response to this notice, together with continued NPS review of the issues, are reflected in this proposed rule.

Public Participation

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this proposed rule to the address noted at the beginning of the rulemaking.

The NPS is particularly interested in comments on whether the revised proposed regulations provide for adequate protections of landowner interests throughout the NNL designation process. The NPS also solicits comments as to whether the revised proposed regulations will improve the NPS' ability to achieve an acceptable balance between its two fundamental goals of encouraging the preservation of nationally significant examples of the Nation's natural heritage and ensuring that owner interests are fully acknowledged and respected at all times.

In addition, the NPS intends to hold public hearings on the NNL program and this proposed rule in the following cities during the 90-day public comment period: Davis, California; Denver, Colorado; Tallahassee, Florida; Boise, Idaho; Porter, Indiana; Bangor, Maine; Albuquerque, New Mexico; Harrisburg, Pennsylvania; and Washington, District of Columbia. Details on the dates, times, and locations of these hearings will be published in advance in the **Federal Register**, in newspapers of general circulation in these cities, and will also be available from the NPS (see under "FOR FURTHER INFORMATION CONTACT" at the beginning of the rulemaking).

Drafting Information

The primary author of the rulemaking is Anne Frondorf, Chief, Planning and Information Branch, Wildlife and Vegetation Division, National Park Service.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance With Other Laws

The Service has determined that this proposed rulemaking is categorically excluded from the procedural requirements of the National Environmental Policy Act under Departmental regulations in 516 DM 6 (49 FR 21438), because it involves the determination of standards for, and identification, nomination, certification and determination of eligibility of properties for listing in the National Natural Landmarks Program. In addition, as a revision of existing regulations applicable to NPS-administered areas, the proposed rulemaking will not have a significant effect on the quality of the human environment, health, and safety because it is not expected to:

(a) Increase public use to the extent of compromising the nature and character of the area of causing physical damage to it;

(b) Introduce noncompatible uses which might compromise the nature and characteristics of the area, or cause physical damage to it;

(c) Conflict with adjacent ownerships or land uses; or

(d) Cause a nuisance to adjacent owners or occupants. Based on this determination, neither an Environmental Assessment nor an Environmental Impact Statement has been prepared.

The Department of the Interior has determined that this rulemaking is not a "major rule" within the meaning of Executive Order 12291 (46 FR 13193, February 19, 1981). The proposed rule is not likely to result in an annual gross effect on the economy of $100 million or more; not likely to result in a major increase in costs or prices for consumers, industries, Federal, state, or local government; or not likely to result in significant adverse effects on competition, employment, investment, productivity, innovation or the ability of U.S. enterprises to compete with foreign enterprises. The proposed modifications will ensure that all owners involved are fully notified in advance of the agency's consideration of their property as a potential national natural landmark, that no entry onto property for the purposes of the program will occur without owner permission, and that only properties where owners have given their voluntary consent will be designated as national natural landmarks by the Secretary.

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, which became effective January 1, 1981, the Department of the Interior has determined that these proposed regulations will not have a significant economic effect on a substantial number of small entities, nor do they require the preparation of a regulatory analysis. The effect of the modifications proposed will be to insure that owners, including, but not limited to, local governments, small businesses, and other small organizations, are fully notified in advance that their property is being considered for possible national natural landmark designation and to only designate sites where owners have given their voluntary consent to such designation. The total estimated economic effects of this rulemaking on small entities are therefore negligible.

The Department of the Interior has reviewed this rule as directed by

Executive Order 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights," to determine if this rule has "policies that have takings implications." The Department has determined that this proposed rule does not have takings implications because it will not have an effect on private property sufficiently severe as to effectively deny economically viable use of any distinct legally protected property interest to its owner, or to have the effect of, or result in, a permanent or temporary physical occupation, invasion, or deprivation. National natural landmark designation does not change ownership of property, and does not dictate use of property so designated. The effect of the modifications proposed in this rulemaking are to strengthen and clarify procedures for owner notification that properties are being considered, to explicitly require that no entry onto property for purposes of the program will occur without owner permission, and to require owner consent prior to NNL designation by the Secretary.

List of Subjects in 36 CFR Part 62

Natural resources.

In consideration of the foregoing, 36 CFR part 62 is proposed to be revised to read as follows:

PART 62—NATIONAL NATURAL LANDMARKS PROGRAM

Sec.

Authority: Sec. 1, Pub. L. 74–292, 49 Stat. 666 (16 U.S.C. 461 et seq.); 90 Stat. 1940 (16 U.S.C. 1a–5); Pub. L. 94–458, 90 Stat. 1342 (16 U.S.C. 1908); Sec. 1211, Pub. L. 101–628; Sec. 2 of Reorganization Plan No. 3 of 1950 (34 Stat. 1262).

§ 62.1 Purpose.

The purpose of these procedures is to set forth the processes and criteria use to identify, evaluate, designate, and monitor national natural landmarks. The purpose of the national natural landmarks program is to identify and encourage the preservation of sites best illustrating the biological and geological character of the United States, to enhance the scientific and educational value of sites thus preserved, to strengthen public appreciation of natural history, and to foster a greater concern in the conservation of the Nation's natural heritage.

§ 62.2 Definitions.

National Natural Landmark means an area of national significance, designated by the Secretary of the Interior, that contains an outstanding representative example(s) of the nation's natural heritage, and that is located within the boundaries of the United States or its Territories, or on the Outer Continental Shelf.

National Registry of Natural Landmarks means the official listing of all designated national natural landmarks.

National Significance denotes an area that contains one of the best examples of a biological community or geological feature within a natural region, including terrestrial communities, landforms, geological features and processes, habitats of native plant and animal species, or fossil evidence of the development of life on earth.

Natural Region means a distinct physiographic province having similar geologic history, structures, and landforms. The basic physiographic characteristics of a natural region influence its vegetation, climate, soils, and animal life. Examples include the Atlantic Coastal Plain, Great Basin, and Brooks Range natural regions.

Owner means the individual(s), corporation(s), or partnership(s) named in applicable local tax records as fee simple owners of land, except as specified in § 62.4(d)(1), below, or the head of the public agency, or subordinate employee of the public agency to whom such authority has been delegated, responsible for administering public land.

Potential Natural Landmark means an area that, based on initial comparison with other areas in the same natural region, appears to merit further study for possible national natural landmark designation.

Representative refers to any individual, agency, or organization, private or public, which is performing actions related to the identification, evaluation, designation, or monitoring of national natural landmarks on behalf of or as an agent of the National Park Service, either under a contractual agreement or as a volunteer.

Secretary means the Secretary of the Interior or the designee authorized to carry out the Secretary's responsibilities.

§ 62.3 Effects of designation.

(a) The purpose of the national natural landmarks program is to focus attention on areas of exceptional value to the nation as a whole, rather than to one particular State or locality. The program recognizes the preservation efforts of Federal, State, and local agencies, as well as private organizations and individuals, and encourages the owners of national natural landmarks to voluntarily observe preservation precepts.

(b) Designation of an area by the Secretary of the Interior as a national natural landmark is not a land withdrawal, does not change the ownership of a site, and does not dictate activity. However, Federal agencies should consider the unique properties of designated national natural landmarks, and of areas found to meet the scientific criteria for national significance, in their planning and environmental compliance (see § 62.6(f)), and there may be State or local planning or land use implications. Owners who agree to have their land designated as a national natural landmark give up none of the legal rights and privileges of ownership or use of the area. The Department of the Interior does not gain any property interest in these lands.

(c) The Secretary is required to provide an annual report to the Congress on damaged or threatened designated national natural landmarks (see § 62.6(b)). In addition, the Secretary is also required to report to the Advisory Council on Historic Preservation on any designated national natural landmarks that may be irreparably lost or destroyed by surface mining activity (see § 62.6(e)).

§ 62.4 Natural landmark designation and recognition process.

(a) *Identification.* Potential national natural landmarks are identified in the following manner.

(1) *Natural Region Studies.* The National Park Service (NPS) conducts studies of the biological and geological features in each natural region to provide a scientific basis for identifying potential national natural landmarks. NPS is responsible for the completion of these studies, which are generally done under contract with qualified scientists. A study of each natural region produces a classification and description of biological and geological features in that natural region and an annotated list of areas that illustrate those features. In the course of completing a natural region study, NPS, or any representative of NPS, may only enter onto land after receiving permission from the owner(s) of that land.

(2) *Other Sources.* (i) Any other source, public or private, may suggest an area to NPS for consideration for

landmark study and designation. This includes: Federal agency programs, where certain Federal agencies conduct inventories in order to identify areas of special concern, for example: essential wildlife habitat, research natural areas, and areas of critical environmental concern, and State natural area programs that systematically and comprehensively classify, identify, locate, and assess the relative value and protection status of the biological and geological features located in the respective States.

(ii) In cases where an individual, agency, or organization which is suggesting an area to NPS for consideration as described above is not the owner of the area being suggested, permission of the owner(s) is required before entering onto their land to gather any information on the area. NPS will not consider any information provided by outside sources recommending an area, where such information was obtained by entry onto land without the permission of the owner(s) of that land.

(3) After receiving the suggestions from a completed natural region study and comparing these to suggestions received from other sources as described above, the NPS will determine which areas merit further study as potential national natural landmarks. This determination is based on comparison with existing national natural landmarks in the natural region, reference to the national natural landmark criteria (See § 62.5, below), and other information and studies, as available.

(b) *First Notification.* (1) Before a potential national natural landmark is evaluated by scientists as described in § 62.4(c), below, NPS will notify the owner(s) in writing. This notice advises the owner(s) that the area is being considered for study for possible national natural landmark designation and provides information on the National Natural Landmarks Program, including an explanation of the effects of national natural landmark designation as described in § 62.3, above. Owner notice also provides the owner with available information on the area and its apparent significance, and solicits the owner's comments on the area's significance and condition, including any information on current or anticipated land use or activities that may affect the area's natural values, integrity, or other matters of concern. The notice also requests owner permission for NPS, or its representative, to conduct an on-site evaluation of the area, as described under § 62.4(c), of this section.

(2) Before a potential national natural landmark that has 50 or more owners is evaluated by scientists as described in § 62.4(c), below, NPS, will notify the owners in writing as described in § 62.4(b)(1), above. This notice also is published in one or more local newspapers of general circulation in the area in which the potential national natural landmark is located. In addition, NPS may conduct a public information meeting if widespread local public interest so warrants, or at the request of the executive of the local governmental jurisdiction in which the area is located.

(3) In the course of completing an on-site evaluation as described in § 62.4(c), below, NPS, or any representative of NPS, will not enter onto land without receiving permission from the owner(s) of that land. NPS may complete evaluations of sites using other existing information sources, including information previously developed by other Federal or State agencies or other scientific studies, without entering onto lands where permission has not been granted.

(4) All procedures described above relating to providing written notification to owners and receiving responses from owners relating to the first notification process are the responsibility of NPS alone and cannot be delegated to any representative of NPS.

(c) *Evaluation.* (1) NPS will evaluate areas identified as potential national natural landmarks to assess their natural values using the national natural landmark criteria (see § 62.5). The evaluation of potential national natural landmarks is completed on a natural region basis, i.e., similar areas that represent a particular type of feature located in the same natural region are evaluated and compared in order to identify examples which best represent the feature and have the most intact, undisturbed natural integrity. Evaluators develop a detailed description of the area, and assess the significance of the areas under study using the national natural landmark criteria (see § 62.5) and additional information provided by the NPS. Evaluation reports must have been completed or updated within the previous 2 years in order to be considered by NPS.

(2) Completed evaluation reports will be reviewed by no less than three peer reviewers, preferably by scientists familiar with the biological or geological features of the area or natural region in question. These reviewers will provide NPS with input on the scientific merit and strength of supportive documentation of the evaluation report. On the basis of evaluation report(s), and the findings of the peer reviewers, the NPS will make a determination that:

(i) The area does not appear to qualify for national natural landmark designation;

(ii) The area appears to qualify for national natural landmark designation; or

(iii) Additional information is required before a decision can be made regarding the area's status. When NPS determines that an area does not appear to qualify for national natural landmark designation, it will notify in writing the owner(s) who were notified as prescribed in § 62.4(b)(1) and (2), above, of this determination.

(d) *Second Notification.* (1) When the Director determines, based on available information, that an area demonstrates that it meets the scientific criteria for national significance, and it is reasonable to conclude from the comments received that all the owners will give their consent to such designation, NPS will notify all owner(s) in writing. For purposes of this second notification, a list of owners to be notified will be developed through title search or other procedures if multiple ownership so requires. This notice references these rules, advises the owners of the procedures the NPS will follow and of the effects of national natural landmark designation as described in § 62.3, above, and requests the owner(s)' written consent to having their land so designated.

(2) In addition, NPS will notify:

(i) The executive of the local governmental jurisdiction in which the area is located;

(ii) The Governor of the State;.

(iii) Other appropriate state officials;

(iv) The Members of Congress who represent the district and the State in which the area is located; and

(v) Other interested authorities, organizations, and individuals as deemed appropriate. These notices reference these rules, advise the recipient of the proposed action, of the procedures the NPS will follow, and of the effects of national natural landmark designation as described in § 62.3 above. Notice of the proposed action also will be published in the **Federal Register.**

(3) All individuals notified, including non-owners, have 120 days to provide comments before any decision is made on whether the area meets the scientific criteria for national significance. To assist in the evaluation of an area's features, comments should, among other factors, discuss the significance of the area's natural values and integrity, including information on current or

anticipated land use or threats that may affect the area's natural values. Any party may request a reasonable extension of the comment period when additional time is required to study and comment on the landmark proposal. All comments received are considered in the national natural landmark designation process.

(4) In order for an area to be designated as a national natural landmark by the Secretary of the Interior, NPS must receive within 120 days a written response from all owners notified pursuant to § 62.4(d)(1), above, indicating the owner(s)' consent to having their property designated as a national natural landmark and their willingness to protect, use, and manage the area in a manner that prevents the loss or deterioration of the natural values and integrity of the area.

(5) All procedures described above relating to providing notification to owners and receiving responses from owners relating to the second notification process are the responsibility of NPS alone and cannot be delegated to any representative of NPS.

(e) *Significance Determination.* (1) When, upon review of all documentation, including, but not limited to, evaluation reports, peer reviews, and comments received, NPS determines that an area does *not* meet the scientific criteria for national significance (see § 62.5), NPS will notify the owner(s), in writing, that their land is no longer under consideration for possible national natural landmark designation. In addition, NPS will notify, in writing, those officials, individuals, and organizations notified under § 62.4(d)(2), above.

(2) When NPS determines that an area does meet the scientific criteria for national significance, it will then determine whether the owner(s) have given their written consent to having the area designated as a national natural landmark.

(f) The NPS will maintain information on areas that the Director has found, after considering all available information, meet the scientific criteria for national significance, but which have not received the requisite owner consent. This may include sites for which the NPS has elected not to undertake second notification, pursuant to § 62.4(d)(1), as well as sites for which such second notification has been undertaken.

(g) *National Park System Advisory Board.* (1) The Director, NPS, will review the documentation for each area which has been found to meet the scientific criteria for national significance. Once he or she determines that the procedural requirements set forth herein have been met, and that all the owners have given their written consent to designation, the Director will submit information on the area, through the Assistant Secretary for Fish and Wildlife and Parks, to the National Park System Advisory Board. The Advisory Board will review the information submitted to recommend whether or not the area qualifies for national natural landmark designation.

(2) Notice of Advisory Board meetings to review national natural landmark nominations and meeting agendas will be given at least 60 days in advance of the meeting by publication in the **Federal Register**. Interested parties are encouraged to submit written comments and recommendations which will be presented to the Advisory Board. Interested parties may also attend the Advisory Board meeting and, upon request, will be given the opportunity to address the Board concerning a site's national significance.

(h) The recommendation of the Advisory Board and the materials developed by the Director will be submitted to the Assistant Secretary for Fish and Wildlife and Parks who will consider them and submit qualified areas to the Secretary for his/her consideration for designation as national natural landmarks.

(i) *Designation.* The Secretary will review the materials submitted by the Assistant Secretary for Fish and Wildlife and Parks, and any other documentation, and make a decision on national natural landmark designation. Areas which the Secretary designates as national natural landmarks are included on the National Registry of Natural Landmarks.

(j) *Third Notification.* When the Secretary designates an area as a national natural landmark, the Secretary will notify, in writing: the landmark owner(s), the executive of the local governmental jurisdiction in which the landmark is located, the Governor of the State, the Members of Congress who represent the District and State in which the landmark is located, and other interested authorities, organizations, and individuals as deemed appropriate. NPS prepares the notification documents and is responsible for their distribution. Notice of new designations also will be published in the **Federal Register.**

(k) *Presentation of Plaque and Certificate.* (1) After the Secretary designates an area as a national natural landmark, NPS may provide each owner with a certificate signed by the Secretary of the Interior and the Director of the National Park Service at no cost to the owner(s). This certificate recognizes the voluntary commitment which the owner(s) has made to protect, use, and manage the area in a manner which prevents the loss or deterioration of the natural values on which landmark designation is based. NPS may also provide a bronze plaque, free of charge, for display at an appropriate location within or near the national natural landmark if such display is deemed appropriate. Upon request and to the extent NPS resources permit, NPS may help arrange and participate in a presentation ceremony.

(2) Following presentation, the plaque remains the property of NPS. If the landmark designation is removed in accordance with the procedures specified in § 62.8, below, NPS may reclaim the plaque.

§ 62.5 Natural landmark criteria.

(a) *Introduction.* (1) *National Significance* denotes an area that exemplifies one of a natural region's characteristic biological or geological features which has been evaluated, using the criteria in § 62.5(b), below, as one of the best examples of that feature known in that natural region. Such features include terrestrial and aquatic ecosystems; geologic structures, exposures, and landforms that record active geologic processes or portions of earth history; and fossil evidence of biological evolution. Because the general character of natural diversity is regionally distinct according to broad patterns of physiography, many types of natural features lie wholly within one of the 33 physiographic provinces of the Nation, as defined primarily by Fenneman ("Physiographic Divisions of the United States," 1928) and modified as needed by the National Park Service.

(2) For that reason, and because no uniform, nationally applicable classification schemes for biological communities or geological features have gained wide acceptance and use in lieu of other classification schemes by the majority of organizations involved in natural area inventory activities, individual classification systems are developed for each inventory study of a natural region to identify the types of regionally characteristic natural features sought for representation on the National Registry of Natural Landmarks. Most types represent the scale of distinct biological communities or individual geological, paleontological, or physiographic features, most of which are mappable at the Earth's surface at scales on the order of 1:24,000 or are traceable in the subsurface. In some cases, NPS may elect to further evaluate

only a significant segment of a given natural feature, where the segment is biologically or geologically representative, and where the entire feature is so large as to be impracticable for natural landmark consideration (e.g., an entire mountain range). Nearly two-thirds of all national natural landmarks range in size between about 10 and 5,000 acres, but larger and smaller sites also occur, owing to the wide variety of natural features recognized by the National Natural Landmarks Program.

(b) *Criteria.* The following criteria form the guidelines used to evaluate the relative quality of sites as examples of regionally characteristic natural features. Primary criteria relating to a specific type of natural feature form the principal basis for selection and must be met for a site to be considered for national natural landmark designation. Secondary criteria relating to significant features or qualities in addition to the principal feature are provided for additional consideration when two or more sites are found to meet the primary criteria.

(1) *Primary Criteria.* (i) Illustrative Character. A site exhibits a combination of well-developed component features that are recognized in the appropriate scientific literature as characteristic of a particular type of natural feature. What is sought is not necessarily the statistically representative, but rather the unusually illustrative.

Example: An alpine glacier, which exhibits classic shape, an unusual number of glaciological structures like crevasses, and well-developed bordering moraine sequences.

(ii) Present condition. A site has received less human disturbance than other examples.

Example: A large beech-maple forest, only a small portion of which has been disturbed by logging.

(2) *Secondary Criteria.* (i) Diversity. A site, in addition to its primary natural feature, contains high quality examples of other biological and/or geological features.

Example: A composite volcano, which also illustrates geothermal phenomena.

(ii) Rarity. A site, in addition to its primary natural feature, contains a rare geological or paleontological feature or biological community, or provides high quality habitat for one or more rare, threatened, or endangered species.

Example: Badlands, which also are composed of strata containing rare fossils.

(iii) Value for Science and Education. A site contains known or potential information as a result of its association with a significant scientific discovery, concept, or an exceptionally extensive and long-term record of on-site research, and as such offers unusual opportunities for public interpretation of the natural history of the United States.

Example: A dunes landscape, which was the subject of pioneering studies that first recognized the process of ecological succession.

§ 62.6 Natural landmark monitoring.

(a) NPS, through its Regional Offices, will maintain a continuing relationship with the owners of designated national natural landmarks in the form of periodic contacts to determine whether the landmarks have retained those values which initially qualified them for landmark designation and to update administrative records on the areas.

(b) The Secretary, through NPS, will prepare an annual report to the Congress on all designated national natural landmarks which exhibit known or anticipated damage or threats to one or more of the resource values that made them nationally significant. This report is mandated by Section 8 of the National Park System General Authorities Act of 1970, (90 Stat. 1940) as amended, (16 U.S.C. 1a–5). A landmark is included in this report if it has lost, or is in imminent danger of losing, in whole or in part, its natural character to such a degree that one or more of the values that made it nationally significant is or will be irreversibly damaged or destroyed. The condition of the landmark at the time of designation, protection alternatives which may eliminate or mitigate the damage or threat, and indirect or unseen threats are considered in assessing the status of a landmark. The NPS Regional Offices are responsible for monitoring the condition of and for completing status reports on all designated national natural landmarks in their region. In some cases, NPS may arrange with outside individuals, agencies, or organizations to monitor the status of selected national natural landmarks. Monitoring of national natural landmark condition and status is usually accomplished through a site visit by NPS or its representative.

(c) *Monitoring.* (1) Prior to any visit, by NPS or a representative of NPS, to a national natural landmark for the purposes of monitoring its status and condition, NPS will notify the owner(s) of the particular properties within the national natural landmark to be visited of the planned visit, inform them of the purposes of the monitoring and of its relationship to the Secretary's annual report on threatened or damaged landmarks, and request their permission to enter onto their land.

(2) In the course of monitoring the condition of designated national natural landmarks, NPS, or any representative of NPS, will not enter onto land without receiving permission from the owner(s) of that land. NPS may monitor landmark condition using other existing information sources, including telephone conversations with the owner(s) or manager(s) of the area, written materials provided by the owner or manager, and/or information previously developed by other Federal or State agencies or other scientific studies, without entering onto lands where owner permission has not been granted.

(d) *Section 8 Report Preparation.* (1) Following completion of landmark monitoring, the NPS regional offices will forward their findings and recommendations to the NPS Washington Office. The NPS Washington Office will review the regional findings and recommendations and prepare a draft report listing the national natural landmarks which appear to exhibit known or anticipated damage or threats to the integrity of one or more of the resource values which made them nationally significant. Pertinent portions of this draft report, including any executive summary, will be provided to the owner(s) of all national natural landmarks so listed, as well as to other interested authorities, organizations, and individuals. All individuals have 30 days in which to provide written comments to NPS on the draft report, including additional information on the condition of landmarks so listed or on the nature or imminence of reported damage or threats to these landmarks. Owners also will be asked to indicate if they would like to receive a copy of the final report, as described in § 62.6(d)(2) of this part.

(2) NPS will review all comments received on the draft report and prepare a final report which the Director transmits to the Secretary for submission to the Congress. Upon release of the final report, NPS will provide a copy of pertinent portions of the report to the owner(s) of landmarks listed in the report who have so requested, and to other interested authorities, organizations, and individuals.

(e) Whenever the Secretary determines that a designated national natural landmark may be irreparably lost or destroyed in whole or in part by any surface mining activity, including exploration for or removal or production of minerals or materials, the Secretary will notify the person conducting such activity and prepare a report, including the basis for the Secretary's finding that

such activity may cause irreparable loss or destruction of a landmark. The NPS also will provide written notification of the Secretary's finding to the owner(s) of the national natural landmark in question. The Secretary will submit the report to the Advisory Council on Historic Preservation, along with a request for advice from the Council as to alternative measures that may be taken by the United States to mitigate or abate such activity. Authority for this Secretarial action is contained in section 9 of the Mining in National Parks Act of 1976 (16 U.S.C. 1908, 90 Stat. 1342).

(f) Federal agencies should consider the existence and location of designated national natural landmarks and of areas found to meet the scientific criteria for national significance when assessing the effects of their actions on the environment under Section 102(2)(c) of the National Environmental Policy Act (42 U.S.C. 4321, 83 Stat. 852). NPS is responsible for providing national natural landmark program information for these assessments upon request.

§ 62.7 Natural landmark modifications.

(a) After designation, it may be appropriate to modify a natural landmark. For example, due to new information or changes in the condition of an area it may be necessary to expand or reduce a natural landmark boundary, or otherwise modify information describing the area. Additional study may reveal that the site possesses nationally significant values which had not been previously documented. NPS determines that landmark modifications are necessary through administration of the program. In addition, NPS may receive suggestions for landmark modifications from other Federal agencies, State natural area programs, and other public and private organizations or individuals. NPS will determine the validity of these suggestions by applying the natural landmark criteria and/or conducting additional study, as needed.

(b) Two justifications exist for enlarging the boundary of a national natural landmark: Documentation of previously unrecognized national significance or professional error in the original designation. Enlargement of a boundary will be approved only when the area proposed for addition to the national natural landmark possesses or contributes directly to the characteristics for the which the landmark was designated. If NPS determines that an enlargement of the boundary of the national natural landmark is indicated, the designation process outlined in §§ 62.4 (c) through (j) will be used. In the case of a boundary enlargement, only those owners in the newly considered, but as yet undesignated portion of the area will be notified and will be considered in determining whether the owners of the newly considered area give their consent to designation.

(c) Two justifications exist for reducing the boundary of a national natural landmark: Loss of integrity of the natural features or professional error in the original designation. If the NPS determines that a reduction in the national natural landmark boundary is indicated, the designation removal process outlined in § 62.8, below will be used.

(d) If the NPS determines that a change in the description of the national natural landmark's nationally significant values is indicated, NPS prepares the recommended changes and the Director, NPS, will submit the changes, together with all supportive documentation, through the Assistant Secretary for Fish and Wildlife and Parks, to the National Park System Advisory Board. The Advisory Board will review the information submitted by the Director, NPS, and make recommendations to the Secretary. Based on the recommendations of the Advisory Board, the Secretary may approve changes in the description of a landmark's nationally significant values.

(e) Minor technical corrections to a national natural landmark boundary, and other administrative changes in landmark documentation not covered under §§ 62.7 (a) through (d), above, may be approved by the Director, NPS, without Advisory Board review or the approval of the Secretary.

§ 62.8 Natural landmark designation removal.

(a) National natural landmark designation is removed from an area:

(1) When it can be shown that an error in professional judgement was made such that the area did not meet the scientific criteria for national significance at the time of designation,

(2) When the values which originally qualified it for designation have been lost or destroyed; or

(3) For prejudicial failure to follow applicable designation procedures. Any affected owner of a designated national natural landmark may initiate a removal action by submitting a request for removal of designation and stating the grounds for this removal specifying the error in professional judgement, loss of natural values, or prejudicial procedural error to the Director, NPS. NPS will notify the party submitting the removal request within 60 days of receiving such request as to whether NPS considers the documentation sufficient to consider removal of the natural landmark designation. A prejudicial procedural error is one which reasonably may be considered to have affected the outcome of the designation process.

(b) NPS will review the information outlining the grounds for removal. Where necessary, an on-site evaluation of the area may be completed, as outlined in § 62.4(c). Based on all available information, NPS will determine whether the area appears to no longer merit designation as a national natural landmark.

(c) When it determines that the area appears to no longer merit designation as a national natural landmark, NPS will notify the owner(s) and the other recipients identified in §§ 62.4(d) (1) and (2), above. Notice of the proposed removal also appears in the **Federal Register.** The individuals notified have an opportunity to comment within 90 days of the date of the notice before a recommendation for removal is submitted to the Secretary. All comments received are considered in the review and decision to remove the national natural landmark designation.

(d) *Removal From the Registry.* (1) The Director, NPS, will review the information regarding a possible removal from the National Registry of Natural Landmarks, and determine that the procedural requirements set forth in this section have been met. If the Director confirms the findings, the Director will submit a recommendation for removal, through the Assistant Secretary for Fish and Wildlife and Parks, to the National Park System Advisory Board. The Advisory Board will review the information submitted to recommend whether or not the site should be removed from the Registry.

(2) The recommendations of the Advisory Board and the Director will be submitted to the Assistant Secretary for Fish and Wildlife and Parks who will consider these recommendations and submit areas to the Secretary for his/her consideration for removal from the Registry. If the Secretary concurs, he/she will direct that the landmark be removed from the National Registry of Natural Landmarks. Any area from which designation is withdrawn solely because of procedural error as described in § 62.8(a)(3) above, will automatically be determined to meet the scientific criteria for national significance.

(e) *Notification of Removal From the Registry.* When the Secretary removes a landmark from the National Registry of Natural Landmarks, the Secretary will notify: the landmark owner(s), the

executive of the local government jurisdiction in which the landmark was located, the Governor of the State, members of Congress who represent the District and State in which the area is located, and other interested authorities, organizations, and individuals, as outlined in § 62.4(d)(2). NPS is responsible for preparing and distributing the written notices. NPS will periodically publish notice(s) of removal in the **Federal Register**. NPS may reclaim the natural landmark plaque when a landmark is removed from the National Registry of Natural Landmarks.

§ 62.9 General provisions.

(a) NPS may enter into contracts, memoranda of agreement, cooperative agreements, or other types of agreement with other Federal agencies, States, counties, local communities, private organizations, owners, or other interested individuals or groups to assist in administering the national natural landmarks program. The agreements may include, but not be limited to, provisions relating to identification, evaluation, monitoring, and/or protecting natural landmarks.

(b) NPS may undertake educational and scientific activities to disseminate information on national natural landmarks, the National Natural Landmarks Program, and the benefits derived from systematic surveys of significant natural features to the general public and to interested local, State, and Federal agencies, and private groups. Dissemination of information on ecologically or geologically fragile or sensitive sites may be restricted, where release of such information might endanger or harm the sensitive resources.

(c) Any individual, agency, or organization acting as a representative of NPS in the identification, evaluation, designation, or monitoring of national natural landmarks is required to follow these procedures.

(d) Further guidance on the operation of the National Natural Landmarks Program, as based on these procedures, may be found in other program documents which are available from NPS.

(e) No person shall be considered to have exhausted his or her administrative remedies with respect to the consideration of an area for designation as a national natural landmark, or removal of such designation, until compliance with the procedures set forth herein.

Dated: June 26, 1991.

Mike Hayden,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 91-27929 Filed 11-20-91; 8:45 am]

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federal register

Thursday
November 21, 1991

Part VII

Department of Health and Human Services

National Institutes of Health

Recombinant DNA Molecules Research: Action Under Guidelines

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Research; Action Under the Guidelines

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice of action under the NIH Guidelines for Research Involving Recombinant DNA Molecules.

SUMMARY: This notice sets forth an action to be taken by the Director, National Institutes of Health (NIH), under the May 7, 1986, NIH Guidelines for Research Involving Recombinant DNA Molecules (51 FR 16958).

EFFECTIVE DATE: November 21, 1991.

FOR FURTHER INFORMATION CONTACT: Additional information can be obtained from Dr. Nelson A. Wivel, Director, Office of Recombinant DNA Activities, Office of Science Policy and Legislation, National Institutes of Health, building 31, room 4B11, Bethesda, Maryland 20892, (301) 496–9838.

SUPPLEMENTARY INFORMATION: Today an action is being promulgated under the NIH Guidelines for Research Involving Recombinant DNA Molecules. This proposed action was published for comment in the **Federal Register** of September 3, 1991 (56 FR 43686), and reviewed and recommended for approval by the NIH Recombinant DNA Advisory Committee (RAC) on October 7, 1991.

I. Background Information and Decision on Action Under the NIH Guidelines

A. Addition of Appendix D–XXII to the NIH Guidelines

In a letter dated June 7, 1991, Dr. James M. Wilson of the University of Michigan Medical Center indicated his intention to submit a human gene therapy protocol to the Human Gene Therapy Subcommittee and the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is: "Gene Therapy of Familial Hypercholesterolemia."

This request was published for comment in the **Federal Register** on July 2, 1991, (56 FR 30398).

The protocol was reviewed during the Human Gene Therapy Subcommittee meeting on July 29–30, 1991. Provisional approval was granted with the following stipulations. It was requested that the Principal Investigator provide additional data about the quality control of the vector system and the characteristics of the packaging cell line. In addition, the consent form is to be reviewed following several requested changes.

The Human Gene Therapy Subcommittee forwarded the protocol to the Recombinant DNA Advisory Committee for consideration during the October 7–8, 1991, meeting.

This request was published for comment in the **Federal Register** on September 3, 1991 (56 FR 43686).

During the meeting on October 7–8, 1991, the Recombinant DNA Advisory Committee met to review the protocol and recommendations from the subcommittee. Following the discussion, the Recombinant DNA Advisory Committee by a vote of 16 in favor, 0 opposed, and 1 abstention, approved the protocol with the following section to be added to appendix D:
"Appendix D–XXII."

Dr. James M. Wilson of the University of Michigan Medical Center can conduct a set of experiments on three patients with the homozygous form of familial hypercholesterolemia, using *ex vivo* gene therapy. This approach will attempt to correct the defective function within the patient's liver cells by adding the gene that codes for the normal receptor for low density lipoprotein (LDL). The patient population to be treated will include persons with symptomatic coronary artery disease who have a relatively poor prognosis, but who can tolerate a noncardiac surgical procedure with acceptable risks. Both children and adults will be eligible for this therapy. Patients will be evaluated over a six week period to determine their eligibility in the study and to establish metabolic baselines. The proposed therapy will be an adjunct to the more traditional therapies such as plasma exchange and drugs, which will be reinstituted six weeks after gene therapy. Eligible patients will be admitted to the hospital and subjected to a two step procedure in which a portion of liver is removed on day 0 and in which hepatocytes are isolated and plated in culture.

Recombinant retroviruses will be used to transduce a normal LDL receptor gene into the cultured hepatocytes; these transduced hepatocytes will be harvested on day three and infused into the portal circulation of the patient through an indwelling catheter. The patients will be evaluated for engraftment of gene-corrected hepatocytes through a series of metabolic studies. Three months after gene therapy, a small amount of liver tissue will be harvested by percutaneous biopsy and analyzed for the presence of recombinant derived RNA and DNA to document the presence of the gene coding for the normal LDL receptor.

I accept this recommendation, and appendix D–XXII of the NIH Guidelines will be added accordingly.

II. Summary of Action

A. Addition of Appendix D–XXII to the "NIH Guidelines"

The following section is added to appendix D:
"Appendix D–XXII."

Dr. James M. Wilson of the University of Michigan Medical Center can conduct experiments on three patients with the homozygous form of familiar hypercholesterolemia. Both children and adults will be eligible for this therapy. In an attempt to correct the basic genetic defect in this disease, the gene coding for the low density lipoprotein (LDL) receptor will be introduced into liver cells taken from the patient. The gene-corrected hepatocytes will then be infused into the portal circulation of the patient through an indwelling catheter. The patients will be evaluated for engraftment of these treated hepatocytes through a series of metabolic studies; three months after gene therapy, a liver biopsy will be taken and analyzed for the presence of recombinant derived RNA and DNA to document the presence of the gene coding for the normal LDL receptor.

OMB's Mandatory Information Requirements for Federal Assistance Program Announcements (45 FR 39592) requires a statement concerning the official Government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In

addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

Dated: November 14, 1991.

Bernadine Healy,

Director, National Institutes of Health.

[FR Doc. 91-28068 Filed 11-20-91; 8:45 am]

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federal register

Thursday
November 21, 1991

Part VIII

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Animal Candidate Review for Listing as Endangered or Threatened Species, Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Animal Candidate Review for Listing as Endangered or Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of review.

SUMMARY: In this notice the U.S. Fish and Wildlife Service (Service) presents an updated compilation of vertebrate and invertebrate animal taxa native to the United States that are being reviewed for possible addition to the List of Endangered and Threatened Wildlife under the Endangered Species Act of 1973, as amended (Act). Such taxa are generally referred to as listing candidates. The changes in this document from previous animal notices of review primarily involve: (1) The addition of candidate taxa; (2) changes in category for some candidates; (3) the addition of a category for species that are currently proposed for listing under the Act; (4) a new, alphabetical organization by scientific name of taxa under each major group heading (class or order) identified in previous notices; (5) the omission of taxa that have been identified as non-candidates in previous notices; (6) identification of a Fish and Wildlife Service Region with lead responsibility for each taxon; (7) additions and deletions in State historic distributions; and (8) a report of known trends in status for each candidate taxon. While it is prudent to take candidate taxa into account during environmental planning, neither the substantive nor procedural provisions of the Act apply to a taxon that is designated as a candidate for listing.

Through the publication of this notice, the Service also requests any additional status information that may be available. This information will be considered in preparing listing documents and future revisions and/or supplements to the notice of review. It will also assist the Service in monitoring changes in the status of listing candidates.

DATES: Comments are requested until the publication of an update of this notice, anticipated in 1993.

ADDRESSES: Interested persons or organizations should submit comments regarding particular taxa to the Regional Director of the Region specified with each taxon as having the lead responsibility for that taxon. Comments of a more general nature may be submitted to: Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, Mail Stop 452 ARLSQ, Washington, DC 20240. Written comments and materials received in response to this notice will be available for public inspection by appointment in the Regional Offices listed below. Information relating to particular taxa in this notice may be obtained from the Service's Endangered Species Coordinator in the lead Regional Office identified for each taxon and listed below:

Region 1.—California, Hawaii, Idaho, Nevada, Oregon, Washington, Commonwealth of the Northern Mariana Islands, and Pacific Territories of the United States.

Regional Director (FWE–SE), U.S. Fish and Wildlife Service, Eastside Federal Complex, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181 (503/231–6150 or FTS 429–6150).

Region 2.—Arizona, New Mexico, Oklahoma, and Texas.

Regional Director (FWE–SE) U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766–2914 or FTS 474–2914).

Region. 3.—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin.

Regional Director (FWE/SE), U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111 (612/725–3276 or FTS 725–3276).

Region 4.—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, and the U.S. Virgin Islands.

Regional Director (FWE), U.S. Fish and Wildlife Service, The Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303 (404/331–3580 or FTS 841–3580).

Region 5.—Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia.

Regional Director (FWE), U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158 (617/965–5100, ext. 316, 317, or 318 or FTS 829–9316).

Region 6.—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming.

Regional Director (FWE), U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225 (303/236–7398 or FTS 776–7398).

Region 7.—Alaska.

Regional Director (FWE), U.S. Fish and Wildlife Service, 1011 East Tudor Street, Anchorage, Alaska 99501 (907/786–3505 or FTS 907/786–3505).

FOR FURTHER INFORMATION CONTACT: Endangered Species Coordinator(s) in the responsible Regional Office(s), or Dr. Janet E. Hohn, Deputy Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, Mail Stop 452 ARLSQ, Washington, DC 20240, (703/358–2171 or FTS 921–2171).

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act (16 U.S.C. 1531 *et seq.*) requires the Secretary of the Interior (or Commerce according to vested program responsibilities) to determine whether wildlife and plant species are endangered or threatened, based on the best available scientific and commercial data, after conducting a review of their status. In regulations found at 50 CFR 424.15 the Service advises that it may publish comprehensive notices of such review. These notices contain the names of the species considered to the candidates for listing under the Act and indicate whether sufficient scientific or commercial information is available to warrant proposing to list them. They also solicit additional information regarding any of the species mentioned.

The Service has for many years been gathering data on taxa of animals native to the United States, that appeared, at least at times, to merit consideration for addition to the List of Endangered and Threatened Wildlife. The accompanying table identifies many of these taxa (including, by definition, biological subspecies and certain distinct populations of vertebrate animals) and assigns each taxon to one of the four categories described below. In revising this compilation the Service relies on information from status surveys funded under its various candidate assessment programs, and on other information from State Heritage Programs, from other State and Federal Agencies (such as the Forest Service and the Bureau of Land Management), from knowledgeable scientists, and from comments received in response to previous notices of review.

Unless it is the subject of a current published proposed rule determining endangered or threatened status, none of these taxa receives substantive or procedural protection pursuant to the Act (species that are the subject of a final rule are removed from this table at each periodic updating). The 1988 Amendments to the Act require,

however, monitoring the status of certain candidate taxa to prevent their extinction while awaiting listing. The Service intends to monitor the status of all listing candidates to the fullest extent possible, emphasizing monitoring of species for which available scientific and commercial information indicates imminent threat (see the listing priority guidelines published September 21, 1983, 48 FR 43098).

Many of the taxa in the accompanying table were covered in the Service's previous animal notices of review. The preceding animal review was published in the **Federal Register** of January 6, 1989 (54 FR 554–579). Some minor corrections to that review were published on August 10, 1989 (54 FR 32833). Earlier comprehensive reviews for vertebrate animals were published on September 18, 1985 (50 FR 37958–37967), and on December 30, 1982 (47 FR 58454–58460). An initial comprehensive review for invertebrate animals was published May 22, 1984 (49 FR 21664–21675). This revised notice supersedes all previous animal notices of review.

Soon after publication of the 1989 animal notice of review the Service completed assignment of lead responsibility for all candidate species that occur in more than one Service Region. Those comments received in response to the 1989 animal notice of review were provided for review to the Region having lead responsibility for each candidate species mentioned in the comment. The Service will likewise consider all information provided in response to this notice of review in deciding whether or not to propose species for listing and when to undertake necessary listing actions. Comments received will become part of the administrative record for the species mentioned.

Some taxa covered by the previous notices have had final determinations of endangered or threatened status and, therefore, are not included in this notice of review (for the current U.S. Lists of Endangered and Threatened Wildlife and Plants contact any of the offices in the above **"ADDRESSES"** section). Also, former animal candidates that have been identified in previous notices in categories 3A, 3B or 3C (see definitions below) are not repeated here, except in cases where subsequent category changes were necessary (for example, three Pacific bird taxa incorrectly included in category 3A of the 1989 notice instead of Category 3C; see correction notice, 54 FR 32833).

The Service is aware of some misinterpretations that have been made of Category 3 subcategories in the past. In particular, Category 3A has been interpreted as either a comprehensive compilation of extinct species or as a list of species that became extinct while undergoing status review. Neither interpretation is correct. In fact, status review of the overwhelming majority of species identified in Category 3A revealed extinction that had occurred well before passage of the Endangered Species Act of 1973. A common misinterpretation of Category 3C is that a status review indicates those species have special sensitivity or vulnerability to extinction. Although this might be true of some of them, it is not necessarily true of all or even a majority of them.

Current Notice

This notice reflects the Service's current judgment of the possible vulnerability and status trends of native U.S. animal taxa. Taxa in the notice are assigned to several status categories, noted in the "Category" column at the left side of the table.

Codes for the major status categories of taxa in the first column of the table are explained below:

PE—Taxa already proposed to be listed as endangered.

PT—Taxa already proposed to be listed as threatened.

1—Taxa for which the Service has on file enough substantial information on biological vulnerability and threat(s) to support proposals to list them as endangered or threatened species. Proposed rules have not yet been issued because this action is precluded at present by other listing activity. Development and publication of proposed rules on category 1 taxa are anticipated, however, and the Service encourages other Federal agencies to give consideration to such taxa in environmental planning.

2—Taxa for which information now in the 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 proposed rules. The Service emphasizes that these taxa are not being proposed for listing by this notice, and that there are no current plans for such proposals unless additional supporting information becomes available. Further biological research and field study usually will be necessary to ascertain the status of taxa in this category. It is likely that many will be found not to warrant listing, either because they are not threatened or endangered or because they do not qualify as species under the definitions in the Act. The Service hopes that this notice will encourage necessary research on vulnerability, taxonomy, and/or threats for these taxa.

Taxa that once were considered for listing as threatened or endangered but are no longer under such consideration are included in Category 3. Taxa in category 3 are not current candidates for listing. Such taxa are further divided into three subcategories to indicate the reason(s) for their removal from consideration:

3A—Taxa for which the Service has persuasive evidence of extinction. If rediscovered, such taxa might acquire high priority for listing. At this time, however, the best available information indicates that the taxa in this subcategory, or the habitats from which they were known, have been lost.

3B—Names that, on the basis of current taxonomic understanding (usually as represented in published revisions and monographs), do not represent distinct entities meeting the Act's definition of "species"; it also includes vertebrate populations that do not meet this definition. Such supposed taxa could be reevaluated in the future on the basis of new information.

3C—Taxa that have proven to be more abundant or widespread than previously believed and/or those that are not subject to any identifiable threat. If further research or changes in habitat indicate a significant decline in any of these taxa, they may be reevaluated for possible inclusion in categories 1 or 2.

The taxa in categories 1 and 2 of this notice are considered by the Service as candidates for possible addition to the List of Endangered and Threatened Wildlife. The Service encourages their consideration in long-range environmental planning, such as in environmental impact analysis under the National Environmental Policy Act of 1969 (implemented at 40 CFR parts 1500–1508). Information regarding the range, status, and habitat needs of such species is available from the Service's Regional Offices (see **"ADDRESSES"** above).

A second status column has been added for the first time in this notice for status trend, where known. Please notice, however, that status trend is only a small part of the whole picture of a taxon's status and may undergo frequent and/or rapid reversals owing to natural and man-made causes. Each species' status is identified as I, S, D, or U, which stand, respectively, for Improving, Stable, Declining, or Unknown. "Improving" indicates those species known to be increasing in numbers and/or whose threats to their continued existence are lessening in the wild.

"Stable" indicates those species known to have stable numbers over the recent past and/or whose threats have remained relatively constant. "Declining" indicates decreasing numbers and/or increasing threats. "Unknown" is for those species where additional survey work is required to determine their current trends.

Summary of Status Categories

For ease of reference, numerical totals for candidates in the various status categories are provided below:

Proposed for Listing—33 (including PE—21 and PE—12)
Category 1—80
Category 2—1,671 entries (representing about 1,840 taxa)
Category 3—68 (including 3A—20, 3B—8, and 3C—40)

This and previous animal notices have identified a total of 334 category 3 taxa (including 3A—124, 3B—47, and 3C—163).

Request for Information

The Service hereby requests that any further information on the vulnerable taxa named in this notice be submitted as soon as possible and on a continuing basis, including:

(1) Data indicating that a taxon should be assigned to a category other than the one in which it appears;

(2) Nominations of taxa not included;

(3) Recommendations of area as critical habitat for a candidate taxon, or indications that a proposal of critical habitat would not be prudent for a taxon;

(4) Documentation of threats to any of the included taxa;

(5) Information concerning the degree of threats;

(6) Identification of taxonomic or nomenclatural changes for any of the taxa, including the acceptability of the indicated vertebrate populations;

(7) Appropriate common name suggestions; or

(8) Identification of mistakes, such as errors in the indicated historical distributions.

The Service will consider all information received in response to this notice. Substantive changes will be published in the **Federal Register** on a two-year cycle.

Organization of the Table

The following table is arranged alphabetically by names of genera, species, and relevant subspecies under the major group headings (class or order) used in previous animal notices of review. Useful synonyms and subgeneric scientific names appear in parentheses (the synonyms preceded by an equal sign) and are displaced to the right in some instances to avoid affecting the alphabetical order. Some taxa that have not yet been formally described in the scientific literature have been included. Such taxa are identified by a generic or specific name (in italics) followed by "sp." or "ssp." (not italicized, or alphabetized).

Alphabetical order of scientific name is substituted for the phylogenetic sequence used in earlier animal notices to facilitate locating species in the table. However, previous group headings are retained to aid in species recognition and comparisons with previous notices. The scientific community is making some progress in standardizing common names at the species level (but very little at the level of subspecies). Standardized common names are incorporated in these notices as they become available. Any common names replaced in the process of standardization will be repeated at least once (given in parentheses with an equal sign). The flux in common names, the inclusion of vernacular and composite subspecific names, and the fact that a majority of invertebrates still lack a standardized name combine to make common names relatively useless for organizing the table. This notice also presents a group name (in parentheses) for many species, notably mollusks and insects, whose standardized common name given alone would have little recognition value to most users of the table.

For each taxon in the table, the assigned status category appears in the first column on the left. The second column contains the current status trend information. Column three indicates the Service Region with lead responsibility (see **"ADDRESSES"** section above). Following the scientific name of each species or subspecies (fourth column) is the family designation (column five) and any common or vernacular name (column six). Column seven contains the known historical ranges for all included taxa, indicated by postal code abbreviations for States and U.S. possessions (many taxa may no longer occur in all of the areas shown). In the section on birds, the abbreviation "N" indicates the nesting range of the species, and the abbreviation "V" indicates additional areas in which the species is a regular visitor. In only the sections on insects, an asterisk (*) on either the category number of State signifies a lack of reports, to the Service's knowledge, since 1963 for the taxon or for the State, respectively.

Author

This notice was compiled from evaluations by the Service's Fish and Wildlife Enhancement staff biologists in the Service's Regional Offices and Field Stations. It was compiled and edited by Dr. George Drewry of the Division of Endangered Species in the Service's Washington Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record-keeping requirements, and Transportation.

Authority

This notice is published under the authority of the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: September 19, 1991.

Bruce Blanchard,

Acting Director, U.S. Fish and Wildlife Service.

Status		Lead Region	Scientific name	Family	Common name	Historic range
Category	Trend					
			VERTEBRATES			
			MAMMALS			
1	S	R1	*Ammospermophilus nelsoni*	Sciuridae	Nelson's antelope ground squirrel	CA.
PE	U	R1	*Aplodontia rufa californica*	Aplodontidae	Mountain beaver (Mono Basin population).	CA.
1	D	R1	*Aplodontia rufa nigra*	Aplodontidae	Point Arena mountain beaver	CA.
2	U	R1	*Aplodontia rufa phaea*	Aplodontidae	Point Reyes mountain beaver	CA.
2	U	R1	*Arborimus albipes*	Muridae	White-footed vole	CA, OR.
2	U	R5	*Blarina brevicauda aloga*	Soricidae	Martha's Vineyard short-tailed shrew	MA.
2	U	R5	*Blarina brevicauda compacta*	Soricidae	Nantucket short-tailed shrew	MA.

Status		Lead Region	Scientific name	Family	Common name	Historic range
Category	Trend					
2	U	R2	*Blarina brevicauda plumbea*	Soricidae	Aransas short-tailed shrew	TX.
2	U	R4	*Blarina brevicauda shermani*	Soricidae	Sherman's short-tailed shrew	FL.
2	U	R1	*Brachylagus idahoensis*	Leporidae	Pygmy rabbit	CA, ID, MT, NV, OR, UT, WA.
2	U	R2	*Choeronycteris mexicana*	Phyllostomidae	Mexican long-tongued bat	AZ, CA, NM, TX, Mexico, Central & South America.
2	U	R4	*Clethrionomys gapperi maurus*	Muridae	Kentucky red-backed vole	KY
1	D	R2	*Conepatus leuconotus texensis*	Mustelidae	Eastern hog-nosed skunk	TX, Mexico.
2	U	R6	*Conepatus mesoleucus figginsi*	Mustelidae	Colorado hog-nosed skunk	CO.
2	U	R2	*Conepatus mesoleucus telmalestes*	Mustelidae	Big Thicket hog-nosed skunk	TX.
2	U	R2	*Cynomys ludovicianus arizonensis*	Sciuridae	Arizona black-tailed prairie dog	AZ, NM, TX, Mexico.
2	U	R1	*Dipodomys californicus (=heermanni) eximus.*	Heteromyidae	Marysville Heerman's kangaroo rat	CA.
2	U	R2	*Dipodomys elator*	Heteromyidae	Texas kangaroo rat	OK, TX.
2	S	R1	*Dipodomys elephantinus*	Heteromyidae	Big-eared kangaroo rat	CA.
2	U	R6	*Dipodomys merriami frenatus*	Heteromyidae	Merriam's kangaroo rat	UT
2	D	R1	*Dipodomys merriami parvus*	Heteromyidae	San Bernadino Merriam's kangaroo rat	CA.
2	U	R6	*Dipodomys microps alfredi*	Heteromyidae	Gunnison Island kangaroo rat	UT
2	U	R2	*Dipodomys microps leucotis*	Heteromyidae	Marble Canyon kangaroo rat	AZ.
2	U	R6	*Dipodomys microps russeolus*	Heteromyidae	Dolphin Island chisel-toothed kangaroo rat.	UT
1	D	R1	*Dipodomys nitratoides brevinasus*	Heteromyidae	Short-nosed kangaroo rat	CA.
2	U	R6	*Dipodomys ordii cineraceus*	Heteromyidae	Dolphin Island ord's kangaroo rat	UT
2	U	R1	*Emballonura semicaudata*	Emballonuridae	Sheath-tailed bat	CM, GU, TT (Caroline Islands).
2	U	R2	*Euderma maculatum*	Vespertilionidae	Spotted bat	AZ, CA, CO, ID, MT, NM, NV, OR, UT, WY, TX, Canada, Mexico.
1	D	R4	*Eumops glaucinus floridanus*	Molossidae	Florida mastiff-bat	FL.
2	U	R2	*Eumops perotis californicus*	Molossidae	Greater western mastiff-bat	AZ, CA, NM, TX, Mexico.
2	U	R2	*Eumops underwoodi*	Molossidae	Underwood's mastiff-bat	AZ, Mexico, Central America.
2	U	R1	*Eutamias palmeri*	Sciuridae	Palmer's chipmunk	NV.
2	U	R2	*Eutamias quadrivittatus australis*	Sciuridae	Organ Mountains Colorado chipmunk	NM.
2	U	R1	*Eutamias umbrinus nevadensis*	Sciuridae	Hidden Forest Uinta chipmunk	NV.
2	U	R2	*Felis concolor browni*	Felidae	Yuma puma	AZ, CA, Mexico.
2	U	R3	*Felis concolor schorgeri*	Felidae	Wisconsin puma	IA, IL, KS, MN, MO, WI. Canada.
2	S	R6	*Felis lynx canadensis*	Felidae	North American lynx	AK, CO, ID, ME, MI, MN, MT, ND, NH, NV, NY, OR, UT, VT, WA, WI, WY, Canada.
3A		R2	*Felis wiedii cooperi*	Felidae	Texas margay	TX, Mexico.
2	U	R4	*Geomys bursarius breviceps*	Geomyidae	Mer Rouge pocket gopher	LA.
2	U	R4	*Geomys cumberlandius*	Geomyidae	Cumberland pocket gopher	GA.
2	U	R2	*Geomys personatus maritimus*	Geomyidae	Maritime Texas pocket gopher	TX.
2	U	R2	*Geomys personatus streckeri*	Geomyidae	Carrizo Springs Texas pocket gopher	TX.
3A		R4	*Geomys pinetis goffi*	Geomyidae	Goff's southeastern pocket gopher	FL.
2	U	R1	*Glaucomys sabrinus californicus*	Sciuridae	San Bernardino northern flying squirrel	CA.
2	U	R6	*Gulo gulo luscus*	Mustelidae	North American wolverine	CO, ID, MN, MT, ND, NV, UT, WY
2	U	R1	*Gulo gulo luteus*	Mustelidae	California wolverine	CA, OR, WA.
2	U	R1	*Lepus americanus tahoensis*	Leporidae	Sierra Nevada snowshoe hare	CA, NV.
2	D	R1	*Lepus californicus bennettii*	Leporidae	San Diego black-tailed jackrabbit	CA, Mexico.
2	U	R2	*Lepus callotis gaillardi*	Leporidae	White-sided jack rabbit	NM, Mexico.
2	U	R2	*Lutra canadensis sonorae*	Mustelidae	Southwestern otter	AZ, CA, CO, NM, UT
2	U	R2	*Macrotus californicus*	Phyllostomidae	California leaf-nosed bat	AZ, CA, NM, Mexico.
3C		R6	*Marmota flaviventris notioros*	Sciuridae	Wet Mountains yellow-bellied marmot	CO.
2	U	R1	*Martes pennanti pacifica*	Mustelidae	Pacific fisher	CA, OR, WA.
2	U	R1	*Microdipodops megacephalus albiventer*	Heteromyidae	Desert Valley kangaroo mouse	NV
2	U	R1	*Microdipodops megacephalus nasutus*	Heteromyidae	Fletcher dark kangaroo mouse	NV
3C		R5	*Microsorex hoyi winnemana*	Soricidae	Southern pygmy shrew	IL, IN, KY, MD, NC, OH, TN, VA.
2	U	R5	*Microtus breweri*	Muridae	Beach vole	MA.
2	U	R1	*Microtus californicus mohavensis*	Muridae	Mojave river vole	CA.
2	S	R1	*Microtus californicus sanpabloensis*	Muridae	San Pablo California vole	CA.
2	U	R1	*Microtus californicus stephensi*	Muridae	Stephens' California vole (=meadow mouse).	CA.
2	U	R1	*Microtus californicus vallicola*	Muridae	Owens Valley California vole	CA.
2	S	R5	*Microtus chrotorrhinus carolinensis*	Muridae	Southern rock vole	NC, TN, VA, WV
2	U	R2	*Microtus mexicanus navaho*	Muridae	Navaho Mountain Mexican vole	AZ, UT
2	U	R1	*Microtus montanus fucosus*	Muridae	Pahranagat Valley montane vole	NV
2	U	R1	*Microtus montanus nevadensis*	Muridae	Ash Meadows montane vole	NV
2	U	R6	*Microtus montanus rivularis*	Muridae	Virgin River montane vole	UT
2	U	R7	*Microtus oeconomus amakensis*	Muridae	Amak tundra vole	AK.
2	U	R7	*Microtus oeconomus elymocetes*	Muridae	Montague tundra vole	AK.
2	U	R1	*Microtus pennsylvanicus kincaidi*	Muridae	Potholes meadow vole	WA.
2	S	R5	*Microtus pennsylvanicus provectus*	Muridae	Block Island meadow vole	RI.
2	U	R5	*Microtus pennsylvanicus shattucki*	Muridae	Penobscot meadow vole	ME

Status		Lead Region	Scientific name	Family	Common name	Historic range
Category	Trend					
2	U	R1	*Microtus townsendii pugeti*	Muridae	Shaw Island Townsend's vole	WA.
3C		R4	*Mustela frenata peninsulae*	Mustelidae	Florida long-tailed weasel	FL.
3B		R4	*Mustela vison evergladensis*	Mustelidae	Everglades mink	FL.
2	U	R4	*Myotis austroriparius*	Vespertilionidae	Southeastern myotis (bat)	AL, AR, FL, GA, IL, IN, KY, LA, MO, MS, NC, OK, SC, TN, TX.
2	U	R2	*Myotis lucifugus occultus*	Vespertilionidae	Occult little brown bat	AZ, CA, NM, TX, Mexico.
2	D	R5	*Myotis subulatus leibii*	Vespertilionidae	Eastern small-footed bat	AR, CT, DE, GA, IL, IN, KY, MA, MD, ME, MO, NC, NJ, NY, OH, OK, PA, RI, TN, VA, VT, WV, Canada.
2	D	R6	*Myotis thysanodes pahasapensis*	Vespertilionidae	Fringed-tailed myotis	CO, NE, SD, WY.
2	U	R2	*Myotis velifer brevis*	Vespertilionidae	Southwestern cave myotis (bat)	AZ, CA, NM.
2	U	R4	*Neofiber alleni*	Muridae	Round-tailed muskrat	FL, GA.
2	U	R4	*Neotoma floridana haematoreia*	Muridae	Southern Appalachian eastern woodrat	GA, NC, SC.
2	D	R5	*Neotoma floridana magister*	Muridae	Eastern woodrat	AL, CT, IL, IN, KY, MD, NC, NJ, NY, OH, PA, TN, VA, WV.
2	U	R1	*Neotoma fuscipes annectens*	Muridae	San Francisco dusky-footed woodrat	CA.
2	U	R1	*Neotoma fuscipes luciana*	Muridae	Monterey dusky-footed woodrat	CA.
1	D	R1	*Neotoma fuscipes riparia*	Muridae	San Joaquin Valley woodrat	CA.
2	U	R1	*Neotoma lepida intermedia*	Muridae	San Diego desert woodrat	CA.
2	U	R2	*Neotoma mexicana bullata*	Muridae	Santa Catalina Mountains woodrat	AZ.
2	U	R2	*Neotoma micropus leucophaea*	Muridae	White Sands woodrat	NM.
2	U	R6	*Ochotona princeps barnesi*	Ochotonidae	Barnes' pika	UT.
2	U	R6	*Ochotona princeps cinnamomea*	Ochotonidae	Cinnamon pika	UT.
2	U	R6	*Ochotona princeps lasalensis*	Ochotonidae	Lasal pika	UT.
2	D	R6	*Ochotona princeps moorei*	Ochotonidae	Heliotrope pika	NM.
2	U	R2	*Ochotona princeps nigrescens*	Ochotonidae	Goat Peak pika	UT.
2	U	R6	*Ochotona princeps wasatchensis*	Ochotonidae	Wasatch pika	SC.
2	U	R4	*Odocoileus virginianus hiltonensis*	Cervidae	Hilton Head white-tailed deer	GA.
2	U	R4	*Odocoileus virginianus nigribarbis*	Cervidae	Blackbeard Island white-tailed deer	SC.
2	U	R4	*Odocoileus virginianus taurinsulae*	Cervidae	Bulls Island white-tailed deer	SC.
2	U	R4	*Odocoileus virginianus venatoria*	Cervidae	Hunting Island white-tailed deer	CA, Mexico.
2	D	R1	*Onychomys torridus ramona*	Muridae	Southern grasshopper mouse	FL.
PE	D	R4	*Oryzomys argentatus*	Muridae	Silver rice rat	TX, Mexico.
2	U	R2	*Oryzomys couesi aquaticus*	Cricetidae	Coues' rice rat	FL.
3B		R4	*Oryzomys palustris planirostris*	Muridae	Pine Island rice rat	FL.
3B		R4	*Oryzomys palustris sanibeli*	Muridae	Sanibel Island rice rat	CA, OR, WA, Canada.
2	S	R1	*Ovis canadensis californiana*	Bovidae	California bighorn sheep	CA, Mexico.
2	D	R1	*Ovis canadensis cremnobates*	Bovidae	Peninsular bighorn sheep	CA.
2	U	R1	*Perognathus alticola alticola*	Heteromyidae	White-eared pocket mouse	CA.
2	U	R1	*Perognathus alticola inexpectatus*	Heteromyidae	Tehachapi white-eared pocket mouse	AZ.
2	U	R2	*Perognathus amplus ammodytes*	Heteromyidae	Coconino Arizona pocket mouse	AZ.
2	U	R2	*Perognathus amplus amplus*	Heteromyidae	Yavapai Arizona pocket mouse	AZ.
2	U	R2	*Perognathus amplus cineris*	Heteromyidae	Wupatki Arizona pocket mouse	CA, Mexico.
2	U	R1	*Perognathus californicus femoralis* (*Chaetodipus*).	Heteromyidae	Dulzura California pocket mouse	CA, Mexico.
2	U	R1	*Perognathus fallax fallax* (*Chaetodipus*)	Heteromyidae	Northwestern San Diego pocket mouse	CA.
2	U	R1	*Perognathus fallax pallidus* (*Chaetodipus*).	Heteromyidae	Pallid San Diego pocket mouse	AZ.
2	U	R2	*Perognathus flavus goodpasteri*	Heteromyidae	Silky pocket mouse	CA.
3B		R1	*Perognathus inornatus inornatus*	Heteromyidae	San Joaquin pocket mouse	CA.
2	U	R1	*Perognathus inornatus psammophilus*	Heteromyidae	Salinas pocket mouse	AZ.
2	U	R2	*Perognathus intermedius nigrimontis*	Heteromyidae	Black Mountain pocket mouse	CA.
2	U	R1	*Perognathus longimembris bangsi*	Heteromyidae	Palm Springs little pocket mouse	CA.
2	D	R1	*Perognathus longimembris brevinasus*	Heteromyidae	Los Angeles little pocket mouse	CA, Mexico.
2	U	R1	*Perognathus longimembris internationalis*	Heteromyidae	Jacumba little pocket mouse	CA.
2	D	R1	*Perognathus longimembris pacificus*	Heteromyidae	Pacific little pocket mouse	TX.
2	U	R2	*Peromyscus comanche*	Muridae	Palo Duro mouse	AZ, Mexico.
2	U	R2	*Peromyscus eremicus papagensis*	Muridae	Pinacate cactus mouse	AZ.
2	U	R2	*Peromyscus eremicus pullus*	Muridae	Black Mountain cactus mouse	FL.
2	D	R4	*Peromyscus floridanus*	Muridae	Florida mouse	FL.
3A		R4	*Peromyscus gossypinus restrictus*	Muridae	Chadwick Beach cotton mouse	MA.
2	U	R5	*Peromyscus leucopus ammodytes*	Muridae	Monomoy white-footed mouse	VA.
2	U	R5	*Peromyscus leucopus easti*	Muridae	Pungo white-footed mouse	MA.
2	U	R5	*Peromyscus leucopus fuscus*	Muridae	Martha's Vineyard white-footed mouse	CA.
2	U	R1	*Peromyscus maniculatus anacapae*	Muridae	Anacapa deer mouse	CA.
2	U	R1	*Peromyscus maniculatus clementis*	Muridae	San Clemente deer mouse	FL.
2	U	R4	*Peromyscus polionotus leucocephalus*	Muridae	Santa Rosa beach mouse	FL.
1	D	R4	*Peromyscus polionotus peninsularis*	Muridae	St. Andrews beach mouse	AL, AR, FL, GA, IL, IN, KY, LA, MO, MS, NC, OH, OK, SC, TN, TX, VA, WV.
2	U	R4	*Plecotus rafinesquii*	Vespertilionidae	Rafinesque's (=southeastern) big-eared bat.	CA, ID, OR, WA, Canada.
2	D	R1	*Plecotus townsendii townsendii*	Vespertilionidae	Pacific western big-eared bat	FL.
2	U	R4	*Procyon lotor auspicatus*	Procyonidae	Key Vaca raccoon	FL.
2	U	R4	*Procyon lotor incautus*	Procyonidae	Key West raccoon	CM.
1	S	R1	*Pteropus mariannus mariannus*	Pteropodidae	Mariana flying fox (Agiguan, Tinian, Saipan populations).	

Status		Lead Region	Scientific name	Family	Common name	Historic range
Category	Trend					
2	S	R1	*Pteropus mariannus mariannus*	Pteropodidae	Mariana flying fox (Rota, northern island populations).	CM.
2	S	R1	*Pteropus mariannus paganensis*	Pteropodidae	Pagan Mariana flying fox (=Pagan fruit bat).	CM.
2	D	R1	*Pteropus samoensis samoensis*	Pteropodidae	Samoan flying fox (=Samoan fruit bat)	AS, Western Samoa.
2	U	R6	*Rangifer tarandus caribou*	Cervidae	Woodland caribou (Montana population)	MT.
2	U	R2	*Reithrodontomys megalotis arizonensis*	Muridae	Chiricahua western harvest mouse	AZ.
3B		R1	*Reithrodontomys megalotis limicola*	Muridae	Southern marsh harvest mouse	CA.
2	U	R6	*Reithrodontomys megalotis ravus*	Muridae	Stansbury Island harvest mouse	UT.
3B		R1	*Reithrodontomys megalotis santacruzae*	Muridae	Santa Cruz harvest mouse	CA.
2	U	R4	*Scalopus aquaticus bassi*	Talpidae	Englewood mole	FL.
2	U	R2	*Scalopus aquaticus texanus*	Talpidae	Presidio mole	TX.
2	U	R2	*Sciurus arizonensis catalinae*	Sciuridae	Santa Catalina Mountains squirrel	AZ.
2	U	R2	*Sciurus nayaritensis chiricahuae*	Sciuridae	Chiricahua Nayarit squirrel	AZ.
2	D	R4	*Sciurus niger avicennia*	Sciuridae	Mangrove fox squirrel	FL.
2	D	R4	*Sciurus niger shermani*	Sciuridae	Sherman's fox squirrel	FL.
2	U	R2	*Sigmodon arizonae jacksoni*	Muridae	Yavapai Arizona cotton rat	AZ.
2	D	R1	*Sigmodon arizonae plenus*	Muridae	Colorado River cotton rat	CA.
2	U	R2	*Sigmodon fulviventer goldmani*	Muridae	Hot Springs cotton rat	NM.
2	U	R2	*Sigmodon hispidus eremicus*	Muridae	Yuma hispid cotton rat	CA, AZ, Mexico.
2	U	R4	*Sigmodon hispidus insulicola*	Muridae	Insular hispid cotton rat	FL.
2	U	R2	*Sigmodon ochrognathus*	Cricetidae	Yellow-nosed cotton rat	AZ, NM, TX, Mexico.
2	U	R7	*Sorex alaskanus*	Soricidae	Glacier Bay water shrew	AK.
2	U	R2	*Sorex arizonae*	Soricidae	Arizona shrew	AZ, NM.
2	U	R5	*Sorex cinereus nigriculus*	Soricidae	Tuckahoe masked shrew	NJ.
3C		R5	*Sorex dispar*	Soricidae	Long-tailed shrew	MA, MD, ME, NC, NH, NJ, NY, PA, TN, VA, VT, WV.
2	U	R7	*Sorex hydrodromus*	Soricidae	Pribilof Islands shrew	AK.
3C		R4	*Sorex longirostris eionis*	Soricidae	Homossassa shrew	FL.
2	S	R1	*Sorex lyelli*	Soricidae	Mt. Lyell shrew	CA.
1	D	R1	*Sorex ornatus relictus*	Soricidae	Buena Vista Lake shrew	CA.
2	U	R1	*Sorex ornatus salarius*	Soricidae	Monterey ornate shrew	CA.
2	D	R1	*Sorex ornatus salicornicus*	Soricidae	Salt marsh ornate shrew	CA.
1	D	R1	*Sorex ornatus sinuosus*	Soricidae	Suisun ornate shrew	CA.
2	U	R1	*Sorex ornatus willetti*	Soricidae	Santa Catalina shrew	CA.
2	U	R5	*Sorex palustris punctulatus*	Soricidae	Southern water shrew	MD, NC, PA, TN, VA, WV.
2	U	R6	*Sorex preblei*	Soricidae	Preble's shrew	ID, MT, NV, OR, WA, WY.
2	S	R1	*Sorex trowbridgii destructioni*	Soricidae	Destruction Island shrew	WA.
1	D	R1	*Sorex vagrans halicoetes*	Soricidae	Salt marsh vagrant shrew	CA.
1	S	R1	*Spermophilus brunneus* ssp.	Sciuridae	Northern Idaho ground squirrel	ID.
2	S	R1	*Spermophilus brunneus* ssp.	Sciuridae	Southern Idaho ground squirrel	ID.
2	D	R1	*Spermophilus mohavensis*	Sciuridae	Mohave ground squirrel	CA.
2	D	R1	*Spermophilus tereticaudus chlorus*	Sciuridae	Coachella Valley round-tailed ground squirrel.	CA.
2	U	R6	*Spermophilus tridecemlineatus alleni*	Sciuridae	Allen's 13-lined ground squirrel	WY.
2	U	R1	*Spilogale putorius amphiala*	Mustelidae	Channel Islands spotted skunk	CA.
2	U	R6	*Spilogale putorius interrupta*	Mustelidae	Plains spotted skunk	AR, IA, IL, KS, MN, MO, NE, OK, SD, TX.
2	U	R4	*Stenoderma rufum*	Phyllostomidae	Desmarest's fig-eating bat	PR.
1	D	R1	*Sylvilagus bachmani riparius*	Leporidae	Riparian brush rabbit	CA.
2	U	R5	*Sylvilagus floridanus hitchensi*	Leporidae	Smiths Island cottontail rabbit	VA.
2	D	R2	*Sylvilagus floridanus robustus*	Leporidae	Davis Mountains cottontail rabbit	TX.
2	U	R5	*Sylvilagus transitionalis*	Leporidae	New England cottontail rabbit	AL, GA, KY, MA, MD, ME, NC, NH, NJ, NY, PA, TN, VA, VT, WV.
2	U	R5	*Synaptomys borealis sphagnicola*	Muridae	Northern bog lemming	ME, NH, Canada.
2	U	R6	*Synaptomys cooperi paludis*	Muridae	Kansas bog lemming	KS.
2	D	R6	*Synaptomys cooperi relictus*	Muridae	Nebraska bog lemming	NE.
2	U	R6	*Tamias umbrinus sedulus*	Sciuridae	Mount Ellen Uinta chipmunk	UT.
2	U	R1	*Thomomys mazama glacialis*	Geomyidae	Roy Prairie pocket gopher	WA.
2	U	R1	*Thomomys mazama helleri*	Geomyidae	Goldbeach western pocket gopher	OR.
2	U	R1	*Thomomys mazama louiei*	Geomyidae	Louie's western pocket gopher	WA.
2	U	R1	*Thomomys mazama tacomensis*	Geomyidae	Tacoma western pocket gopher	WA.
2	U	R1	*Thomomys umbrinus abstrusus*	Geomyidae	Fish Spring pocket gopher	NV.
2	U	R1	*Thomomys umbrinus amargosae*	Geomyidae	Amargosa southern pocket gopher	CA.
2	U	R6	*Thomomys umbrinus bonnevillei*	Geomyidae	Bonneville southern pocket gopher	UT.
2	U	R6	*Thomomys umbrinus convexus*	Geomyidae	Clear Lake pocket gopher	UT.
2	U	R1	*Thomomys umbrinus curtatus*	Geomyidae	San Antonio pocket gopher	NV.
2	U	R1	*Thomomys umbrinus detumidus*	Geomyidae	Pistol River pocket gopher	OR.
2	U	R6	*Thomomys umbrinus dissimilis*	Geomyidae	Mount Ellen pocket gopher	UT.
2	U	R2	*Thomomys umbrinus guadalupensis*	Geomyidae	Guadalupe southern pocket gopher	NM, TX.
2	U	R2	*Thomomys umbrinus hualpaiensis*	Geomyidae	Hualapai southern pocket gopher	AZ.
2	U	R2	*Thomomys umbrinus limpiae*	Geomyidae	Limpia southern pocket gopher	TX.
2	U	R2	*Thomomys umbrinus mearnsi*	Geomyidae	Mearns' southern pocket gopher	NM.
2	U	R6	*Thomomys umbrinus minimus*	Geomyidae	Stansbury Island pocket gopher	UT.
2	U	R2	*Thomomys umbrinus muralis*	Geomyidae	Prospect Valley pocket gopher	AZ.
2	U	R6	*Thomomys umbrinus nesophilus*	Geomyidae	Antelope Island pocket gopher	UT.
2	U	R2	*Thomomys umbrinus paguatae*	Geomyidae	Cebolleta southern pocket gopher	NM.
2	U	R6	*Thomomys umbrinus powelli*	Geomyidae	Salt Gulch pocket gopher	UT.

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Category	Trend					
2	U	R2	*Thomomys umbrinus quercinus*	Geomyidae	Pajarito southern pocket gopher	AZ.
2	U	R6	*Thomomys umbrinus robustus*	Geomyidae	Skull Valley pocket gopher	UT.
2	U	R6	*Thomomys umbrinus sevieri*	Geomyidae	Swasey Spring pocket gopher	UT.
2	U	R2	*Thomomys umbrinus suboles*	Geomyidae	Searchlight southern pocket gopher	AZ.
2	U	R2	*Thomomys umbrinus subsimilis*	Geomyidae	Harquahala southern pocket gopher	AZ.
2	U	R2	*Thomomys umbrinus texensis*	Geomyidae	Limpia Creek pocket gopher	TX.
2	U	R1	*Urocyon littoralis catalinae*	Canidae	Santa Catalina Island fox	CA.
2	S	R1	*Urocyon littoralis clementae*	Canidae	San Clemente Island fox	CA.
2	S	R1	*Urocyon littoralis dickeyi*	Canidae	San Nicolas Island fox	CA.
2	S	R1	*Urocyon littoralis littoralis*	Canidae	San Miguel Island fox	CA.
2	S	R1	*Urocyon littoralis santacruzae*	Canidae	Santa Cruz Island fox	CA.
2	S	R1	*Urocyon littoralis santarosae*	Canidae	Santa Rosa Island fox	CA.
2	D	R4	*Ursus americanus floridanus*	Ursidae	Florida black bear	FL, GA.
PT	D	R4	*Ursus americanus luteolus*	Ursidae	Louisiana black bear	LA, MS, TX.
2	U	R6	*Vulpes velox*	Canidae	Swift fox	CO, KS, MT, ND, NE, NM, OK, SD, TX, WY, Canada.
2	U	R1	*Vulpes vulpes necator*	Canidae	Sierra Nevada red fox	CA, NV.
1	D	R2	*Zapus hudsonius luteus*	Zapodidae	New Mexican jumping mouse	AZ, NM.
2	D	R6	*Zapus hudsonius preblei*	Zapodidae	Preble's meadow jumping mouse	CO, WY.
2	U	R1	*Zapus trinotatus orarius*	Zapodidae	Point Reyes jumping mouse	CA.
			BIRDS			
2	S	R2	*Accipiter gentilis*	Accipitridae	Northern goshawk	N=AK, AZ, CA, ID, MA, MD, ME, MI, MN, MT, ND, NE, NH, NM, NV, NY, OR, PA, SD, UT, VT, WA, WI, WV, WY, Canada; V=AL, AR, FL, GA, IA, IL, IN, KS, KY, LA, MO, MS, NC, OH, OK, SC, TN, TX, VA, Mexico
2	S	R2	*Accipiter gentilis apache*	Accipitridae	Apache northern goshawk	N=AZ, NM, Mexico.
2	D	R1	*Agelaius tricolor*	Emberizidae	Tricolored blackbird	CA, OR, Mexico.
2	U	R4	*Aimophila aestivalis*	Emberizidae	Bachman's sparrow	AL, AR, FL, GA, IL, IN, KY, LA, MD, MO, MS, NC, OH, OK, PA, SC, TN, TX, VA, WV.
2	S	R2	*Aimophila botterii texana*	Emberizidae	Texas Botteri's sparrow	TX, Mexico.
2	D	R1	*Aimophila ruficeps canescens*	Emberizidae	Southern California rufous-crowned sparrow.	CA, Mexico.
2	D	R6	*Ammodramus bairdii*	Emberizidae	Baird's sparrow	N=MN, MT, ND, SD, Canada; V=CO, ID, KS, MO, NE, OK, NM, TX, Mexico.
2	D	R3	*Ammodramus henslowii*	Fringillidae	Henslow's sparrow	AL, FL, GA, IA, IL, IN, KS, KY, LA, MA, MD, MI, MN, MO, MS, NC, NE, NH, NV, OH, PA, SC, SD, TN, TX, VA, VT, WI, WV, Canada.
3C		R4	*Ammodramus maritima junicola*	Emberizidae	Wakulla seaside sparrow	FL.
3A		R4	*Ammodramus maritima pelonota*	Emberizidae	Smyrna seaside sparrow	FL.
2	D	R1	*Amphispiza belli belli*	Emberizidae	Bell's sage sparrow	CA, Mexico.
2	D	R4	*Anas bahamensis bahamensis*	Anatidae	Lesser white-cheeked pintail	PR, VI, West Indies, South America.
2	U	R1	*Aphelocoma coerulescens cana*	Corvidae	Eagle Mountain scrub jay	CA.
2	S	R2	*Arremonops rufivirgatus rufivirgatus*	Emberizidae	Texas (=Sennett's) olive sparrow	TX, Mexico.
1	S	R1	*Artamus leucorhynchus pelewensis*	Artamidae	Palau white-breasted wood-swallow	TT (Caroline Islands).
1	S	R1	*Asio flammeus ponapensis*	Strigidae	Ponape short-eared owl	TT (Caroline Islands).
2	D	R1	*Brachyramphus marmoratus*	Alcidae	Marbled murrelet	AK, CA, OR, WA, Canada, North Pacific rim to Japan.
2	S	R2	*Buteo nitidus maximus*	Accipitridae	Northern gray hawk	N=AZ, NM, TX, Mexico.
2	U	R4	*Buteo platypterus brunnescens*	Accipitridae	Puerto Rican broad-winged hawk	PR.
2	D	R6	*Buteo regalis*	Accipitridae	Ferruginous hawk	N=CO, ID, KS, MT, ND, NE, NM, NV, OK, OR, SD, TX, UT, WA, WY, Canada; V=AZ, CA, Mexico.
2	D	R1	*Campylorhynchus bruneicapillus couesi*	Troglodytidae	San Diego (coastal population) cactus wren.	CA, Mexico.
2	D	R1	*Centrocercus urophasianus phaios*	Phasianidae	Western sage grouse	OR, WA, Canada.
1	D	R1	*Charadrius alexandrinus nivosus*	Charadriidae	Western snowy plover (coastal population).	CA, OR, WA.
2	D	R6	*Charadrius alexandrinus nivosus*	Charadriidae	Western snowy plover (interior population).	N=CA, CO, KS, NM, NV, OK, OR, TX, UT, WA, V=AZ, Mexico.
2	U	R4	*Charadrius alexandrinus tenuirostris*	Charadriidae	Southeastern snowy plover	AL, FL, LA, MS, PR, Greater Antilles.

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Category	Trend					
?	U	R6	*Charadrius montanus*	Charadriidae	Mountain plover	N=CO, KS, MT, ND, NE, NM, OK, SD, TX, WY; V=AZ, CA, NV, UT, Mexico.
2	D	R6	*Chlidonias niger*	Laridae	Black tern	N=CA, CO, ID, IA, IL, IN, KS, ME, MI, MN, MO, MT, NE, ND, NY, NV, OH, OR, SD, UT, WA, WI, WY, Canada; V=tropical Americas.
2	U	R4	*Columba leucocephala*	Columbidae	White-crowned pigeon	FL, West Indies, Central America.
2	I	R6	*Cygnus buccinator*	Anatidae	Trumpeter swan (Rocky Mountain population).	ID, MT, WY, Canada.
2	D	R4	*Dendrocygna arborea*	Anatidae	West Indian whistling duck	PR, VI, West Indies.
2	D	R1	*Dendrocygna bicolor*	Anatidae	Fulvous whistling duck (SW U.S. population).	N=AZ, CA; V=Mexico.
2	S	R4	*Dendroica angelae*	Emberizidae	Elfin woods warbler	PR.
2	D	R3	*Dendroica cerulea*	Emberizidae	Cerulean warbler	AL, AR, CN, DE, IA, IL, IN, KS, KY, LA, MA, MD, MI, MN, MO, MS, NC, NE, NH, NJ, NY, OH, OK, PA, RI, TN, TX, VA, VT, WI, WV, Canada.
2	U	R4	*Dendroica dominica stoddardi*	Emberizidae	Stoddard's yellow-throated warbler	AL, FL.
2	D	R1	*Ducula oceanica ratakensis*	Columbidae	Radak Micronesian pigeon	TT (Marshall Islands).
2	U	R1	*Ducula oceanica teraokai*	Columbidae	Truk Micronesian pigeon	TT (Caroline Islands).
2	U	R4	*Egretta rufescens*	Ardeidae	Reddish egret	N=FL, TX, Mexico, West Indies; V=AL, CA, LA, MS.
1	D	R2	*Empidonax traillii extimus*	Tyrannidae	Southwestern willow flycatcher	AZ, CA, CO, NM, UT, Mexico.
2	D	R1	*Endomychura hypoleuca scrippsi*	Alcidae	Xantus' murrelet	CA, Mexico.
2	U	R1	*Eremophila alpestris actia*	Alaudidae	California horned lark	CA, Mexico.
2	U	R4	*Falco sparverius paulus*	Falconidae	Southeastern American kestrel	AL, FL, GA, LA, MS.
2	U	R4	*Fulica caribaea*	Rallidae	Caribbean coot	PR, VI, West Indies.
3C		R1	*Gallicolumba xanthonura xanthonura*	Columbidae	Guam white-throated ground-dove	GU, CM.
2	S	R2	*Geothlypis trichas insperata*	Emberizidae	Brownsville common yellowthroat	TX, Mexico.
2	U	R1	*Geothlypis trichas sinuosa*	Emberizidae	Saltmarsh common yellowthroat	CA.
1	D	R2	*Glaucidium brasilianum cactorum*	Strigidae	Cactus ferruginous pygmy-owl	AZ, TX, Mexico.
2	D	R6	*Histrionicus histrionicus*	Anatidae	Harlequin duck	AK, AR, AZ, CA, CO, CT, DE, IA, ID, KS, MA, MD, ME, MN, MO, ND, NE, NH, NJ, NM, NV, MT, OK, OR, RI, SD, TX, WA, WY, UT, Canada.
2	U	R2	*Icterus cucullatus cucullatus*	Emberizidae	Mexican hooded oriole	TX, Mexico.
2	U	R2	*Icterus cucullatus sennettii*	Emberizidae	Sennett's hooded oriole	TX, Mexico.
2	U	R2	*Icterus graduacauda audubonii*	Emberizidae	Audubon's oriole	TX, Mexico.
2	D	R1	*Ixobrychus exilis hesperis*	Ardeidae	Western least bittern	AZ, CA, NV, OR, UT, Mexico.
2	U	R3	*Lanius ludovicianus*	Laniidae	Loggerhead shrike	AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, IA, ID, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MO, MS, MT, NC, ND, NE, NH, NM, NJ, NY, NV, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, VT, WA, WI, WV, WY, Canada, Mexico.
2	U	R6	*Laterallus jamaicensis*	Rallidae	Black rail	AL, AR, AZ, CA, CT, DE, FL, GA, IA, IL, IN, KS, KY, LA, MA, MD, MI, MO, MS, NC, NJ, OH, OK, PA, NY, RI, SC, TN, TX, VA, WI, WV.
2	U	R7	*Melospiza melodia amaka*	Emberizidae	Amak song sparrow	AK.
2	S	R1	*Melospiza melodia maxillaris*	Emberizidae	Suisun song sparrow	CA.
2	U	R1	*Melospiza melodia pusillula*	Emberizidae	Alameda (South Bay) song sparrow	CA.
2	U	R1	*Melospiza melodia samuelis*	Emberizidae	San Pablo song sparrow	CA.
2	U	R1	*Moho bishopi*	Melephagidae	Bishop's o'o	HI.
3C		R1	*Myzomela cardinalis saffordi*	Melephagidae	Cardinal honey-eater	CM, GU.
3C		R6	*Numenius americanus*	Scolopacidae	Long-billed curlew	N=CA, CO, IA, ID, KS, MT, ND, NE, NM, NV, OK, OR, SD, TX, UT, WA, WI, WY, Canada; V=AZ, LA, MN, Mexico.
2	U	R7	*Numenius tahitiensis*	Scolopacidae	Bristle-thighed curlew	N=AK; V=HI, Central Pacific Islands.
2	U	R1	*Oceanodroma castro cryptoleucura*	Laridae	Band-rumped storm petrel	HI.

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Category	Trend					
2	D	R1	*Oreortyx pictus*	Phasianidae	Mountain quail	CA, ID, NV, OR, WA.
2	U	R4	*Otus nudipes newtoni*	Strigidae	Virgin Islands screech owl	PR, VI.
2	D	R4	*Oxyura jamaicensis jamaicensis*	Anatidae	West Indian ruddy duck	PR, VI, West Indies.
2	S	R2	*Parula pitiayumi nigrilora*	Emberizidae	Tropical parula (=Olive-backed warbler)	TX, Mexico.
2	S	R1	*Passerculus sandwichensis beldingi*	Emberizidae	Belding's savannah sparrow	CA, Mexico.
2	U	R1	*Passerculus sandwichensis rostratus*	Emberizidae	Large-billed savannah sparrow	N=Mexico; V=AZ, CA.
2	D	R1	*Pipilo erythrophthalmus clementae*	Emberizidae	San Clemente towhee	CA.
2	U	R1	*Plegadis chihi*	Threskiornithidae	White-faced ibis	N=AZ, CA, CO, NM, NV, OK, OR, SD, TX, UT; V=ID, WY, Mexico.
2	D	R1	*Polioptila californica (=melanura) californica.*	Muscicapidae	Coastal California gnatcatcher	CA, Mexico.
3C		R1	*Ptilinopus roseicapillus*	Columbidae	Mariana fruit dove	GU, CM.
2	U	R4	*Rallus longirostris insularum*	Rallidae	Mangrove clapper rail	FL.
1	S	R1	*Rukia ruki*	Zosteropidae	Truk greater white-eye	TT (Caroline Islands).
2	U	R1	*Sterna elegans*	Laridae	Elegant tern	CA, Mexico.
2	D	R3	*Sterna hirundo*	Laridae	Common tern (Great Lakes population)	IL, IN, MI, MN, NY, OH, PA, WI, Canada.
PT	U	R2	*Strix occidentalis lucida*	Strigidae	Mexican spotted owl	AZ, CO, NM, TX, UT, Mexico.
2	D	R1	*Strix occidentalis occidentalis*	Strigidae	California spotted owl	CA.
2	D	R5	*Thryomanes bewickii altus*	Troglodytidae	Appalachian Bewick's wren	AL, GA, KY, MD, NC, OH, PA, SC, TN, VA, WV, Canada.
2	D	R1	*Tympanuchus phasianellus columbianus*	Phasianidae	Columbian sharptailed grouse	CA, CO, ID, OR, MT, NV, UT, WA, WY, Canada.
2	S	R1	*Zosterops conspicillata rotensis*	Zosteropidae	Rota bridled white-eye	CM.
			REPTILES			
2	S	R4	*Ameiva wetmorei*	Teiidae	Blue-tailed ground lizard	PR.
2	U	R1	*Anniella pulchra nigra*	Anniellidae	Black California legless lizard	CA.
2	D	R4	*Anolis cooki*	Iguanidae	Cook's anole	PR.
2	S	R4	*Anolis occultis*	Iguanidae	Puerto Rican pygmy anole	PR.
2	U	R4	*Arrhyton exiguum exiguum*	Colubridae	Culebra garden snake	PR.
2	U	R1	*Charina bottae umbratica*	Boidae	Southern rubber boa	CA.
2	D	R1	*Clemmys marmorata marmorata*	Emydidae	Northwestern pond turtle	CA, NV, OR, WA, Canada.
1	D	R1	*Clemmys marmorata pallida*	Emydidae	Southwestern pond turtle	CA.
2	U	R4	*Clemmys muhlenbergii*	Emydidae	Bog turtle	CT, DE, GA, MA, MD, NC, NY, NJ, PA, RI, SC, VA.
2	S	R3	*Clonophis kirtlandi*	Colubridae	Kirtland's snake	IL, IN, KY, MI, OH, PA.
2	U	R2	*Cnemidophorus burti*	Teiidae	Canyon (giant) spotted whiptail	AZ, NM.
2	S	R2	*Cnemidophorus dixoni*	Teiidae	Gray-checkered whiptail	NM, TX.
2	D	R1	*Cnemidophorus hyperythrus*	Teiidae	Orange-throated whiptail	CA, Mexico.
2	D	R1	*Cnemidophorus tigris multiscutatus*	Teiidae	Coastal western whiptail	CA, Mexico.
2	U	R1	*Coleonyx switaki (=Anarbylus s.)*	Eublepharidae	Barefoot gecko	CA, Mexico.
2	U	R1	*Coleonyx variegatus abbotti*	Gekkonidae	San Diego banded gecko	CA, Mexico.
2	U	R1	*Crotalus ruber ruber*	Viperidae	Northern red diamond rattlesnake	CA, Mexico.
2	U	R2	*Crotaphytus reticulatus*	Iguanidae	Reticulate collared lizard	TX, Mexico.
2	U	R4	*Diadophis punctatus acricus*	Colubridae	Key ringneck snake	FL.
2	U	R1	*Diadophis punctatus modestus*	Colubridae	San Bernardino ringneck snake	CA.
2	U	R1	*Diadophis punctatus similis*	Colubridae	San Diego ringneck snake	CA, Mexico.
2	U	R1	*Elagaria panamintina*	Anguidae	Panamint alligator lizard	CA.
2	D	R6	*Emydoidea blandingii*	Emydidae	Blanding's turtle	MN, SD, NE, IA, WI, IL, MI, IN, OH, PA, NY.
2	U	R4	*Eumeces egregius egregius*	Scincidae	Florida Keys mole skink	FL.
2	U	R4	*Eumeces egregius insularis*	Scincidae	Cedar Key mole skink	FL.
2	U	R2	*Eumeces gilberti arizonensis*	Scincidae	Arizona Gilbert's skink	AZ.
2	D	R1	*Eumeces skiltonianus interparietalis*	Scincidae	Coronado skink	CA, Mexico.
2	U	R2	*Gopherus agassizii (=Xerobates a.)*	Testudinidae	Desert tortoise (Sonoran Desert population).	AZ, Mexico.
2	D	R4	*Gopherus polyphemus*	Testudinidae	Gopher tortoise (eastern population)	FL, GA, SC.
2	U	R4	*Graptemys barbouri*	Emydidae	Barbour's map turtle	AL, FL, GA.
2	D	R4	*Heterodon simus*	Colubridae	Southern hognose snake	AL, FL, GA, MS, NC, SC.
2	U	R3	*Kinosternon flavescens flavescens*	Kinosternidae	Yellow mud turtle (northern populations)	IA, IL, MO, NE.
2	U	R2	*Kinosternon hirtipes murrayi*	Kinosternidae	Big Bend mud turtle	TX, Mexico.
2	U	R1	*Lampropeltis zonata pulchra*	Colubridae	San Diego Mountain king snake	CA.
2	U	R1	*Lichanura trivirgata rosafusca*	Boidae	Coastal rosy boa	CA, Mexico.
2	U	R4	*Macroclemys temmincki*	Chelydridae	Alligator snapping turtle	AR, AL, FL, GA, IL, IN, KY, KS, LA, MO, MS, OK, TN, TX.
2	U	R2	*Malaclemys terrapin littoralis*	Emydidae	Texas diamondback terrapin	LA, TX.
2	D	R5	*Malaclemys terrapin terrapin*	Emydidae	Northern diamondback terrapin	CT, DE, MD, NC, NJ, NY, MA, RI, VA.
1	D	R1	*Masticophis lateralis euryxanthus*	Colubridae	Alameda striped racer	CA.
2	U	R4	*Nerodia clarki*	Colubridae	Gulf salt marsh snake	AL, FL, LA, MS, TX.
2	U	R3	*Nerodia erythrogaster neglecta*	Colubridae	Copperbelly water snake	IL, IN, KY, MI, OH.
2	U	R2	*Nerodia harteri harteri*	Colubridae	Brazos water snake	TX.
1	D	R3	*Nerodia sipedon insularum*	Colubridae	Lake Erie water snake	OH, Canada.
2	U	R4	*Ophisaurus compressus*	Anguidae	Island glass lizard	FL, GA, SC.

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Category	Trend					
2	D	R2	*Phrynosoma cornutum*	Iguanidae	Texas horned lizard	AZ, AR, CO, KS, LA, MO, NM, OK, TX, Mexico.
2	D	R1	*Phrynosoma coronatum blainvillii*	Iguanidae	San Diego horned lizard	CA, Mexico.
1	D	R1	*Phrynosoma mcallii*	Iguanidae	Flat-tailed horned lizard	CA, AZ, Mexico.
2	U	R4	*Pituophis melanoleucus lodingi*	Colubridae	Black pine snake	AL, LA, MS.
2	U	R4	*Pituophis melanoleucus melanoleucus*	Colubridae	Northern pine snake	AL, GA, NC, NJ, SC, TN, VA, WV.
2	D	R4	*Pituophis melanoleucus mugitus*	Colubridae	Florida pine snake	AL, FL, GA, SC.
2	U	R1	*Pituophis melanoleucus pumilis*	Colubridae	Santa Cruz Island gopher snake	CA.
2	U	R4	*Pituophis melanoleucus ruthveni*	Colubridae	Louisiana pine snake	LA, TX.
2	S	R4	*Pseudemys (decussata) stejnegeri*	Emydidae	Jicotea	PR.
2	U	R1	*Salvadora hexalepis virgultea*	Colubridae	Coast patch-nosed snake	CA.
2	D	R1	*Sauromalus obesus*	Iguanidae	Chuckwalla	AZ, CA, NV, UT, Mexico.
2	U	R1	*Sceloporus graciosus vandenburgianus*	Iguanidae	Southern sagebrush lizard	CA, Mexico.
2	D	R4	*Sceloporus woodi*	Iguanidae	Florida scrub lizard	FL.
2	U	R3	*Sistrurus catenatus catenatus*	Viperidae	Eastern massasauga	IA, IL, IN, MI, MO, MN, NY, OH, PA, WI, Canada.
2	D	R4	*Stilosoma extenuatum*	Colubridae	Short-tailed snake	FL.
2	D	R6	*Storeria occipitomeoculata pahasapae*	Colubridae	Black Hills redbelly snake	SD, WY
2	D	R4	*Tantilla oolitica*	Colubridae	Rimrock crowned snake	FL.
2	S	R5	*Thamnophis brachystoma*	Colubridae	Short-headed garter snake	NY, PA.
2	U	R2	*Thamnophis eques*	Colubridae	Mexican garter snake	AZ, NM, Mexico.
1	D	R1	*Thamnophis gigas (=couchi g.)*	Colubridae	Giant garter snake	CA.
2	U	R1	*Thamnophis hammondii*	Colubridae	Two-striped garter snake	CA.
2	U	R2	*Thamnophis rufipunctatus*	Colubridae	Narrow-headed garter snake	AZ, NM, Mexico.
2	U	R2	*Thamnophis sirtalis annectans*	Colubridae	Texas garter snake	KS, TX.
2	U	R4	*Tropidophis melanurus bucculentus*	Colubridae	Navassa dusky dwarf boa	Navassa Island.
2	D	R1	*Uma notata notata*	Iguanidae	Colorado Desert fringed-toed lizard	CA, Mexico.
2	U	R2	*Uma notata rufopunctata*	Iguanidae	Cowles fringe-toed lizard	AZ, Mexico.
			AMPHIBIANS			
2	U	R1	*Ambystoma californiense (=A. tigrinum c.).*	Ambystomatidae	California tiger salamander	CA.
2	U	R4	*Ambystoma cingulatum*	Ambystomatidae	Flatwoods salamander	AL, FL, GA, MS, SC.
1	D	R2	*Ambystoma tigrinum stebbinsi*	Ambystomatidae	Sonoran tiger salamander	AZ, Mexico.
2	D	R4	*Aneides aeneus*	Plethodontidae	Green salamander (Southern Blue Ridge population).	GA, NC, SC.
2	S	R2	*Aneides hardii*	Plethodontidae	Sacramento Mountains salamander	NM.
2	U	R1	*Batrachoseps campi*	Plethodontidae	Inyo Mountains slender salamander	CA.
2	U	R1	*Batrachoseps pacificus pacificus*	Plethodontidae	Channel Islands slender salamander	CA.
2	U	R1	*Batrachoseps simatus*	Plethodontidae	Kern Canyon slender salamander	CA.
2	U	R1	*Batrachoseps stebbinsi*	Plethodontidae	Techachapi slender salamander	CA.
2	D	R6	*Bufo boreas boreas*	Bufonidae	Boreal western toad (Rocky Mountains population).	CO, NM, WY.
2	U	R1	*Bufo canorus*	Bufonidae	Yosemite toad	CA.
2	U	R1	*Bufo exsul*	Bufonidae	Black toad	CA.
2	D	R1	*Bufo microscaphus californicus*	Bufonidae	Arroyo southwestern toad	CA, Mexico.
2	U	R2	*Bufo microscaphus microscaphus*	Bufonidae	Arizona southwestern toad	AZ, CA, NM, NV, UT, Mexico.
2	U	R1	*Bufo nelsoni*	Bufonidae	Amargosa toad	NV.
2	D	R4	*Cryptobranchus alleganiensis*	Cryptobranchidae	Hellbender	AL, AR, GA, IA, IL, IN, KY, KS, MD, MN, MO, MS, NC, NY, OH, PA, SC, TN, VA, WV.
2	U	R4	*Desmognathus brimleyorum*	Plethodontidae	Ouachita dusky salamander	OK, AR.
2	S	R4	*Eleutherodactylus cooki*	Leptodactylidae	Guajon, rock frog	PR.
2	D	R4	*Eleutherodactylus eneidae*	Leptodactylidae	Mottled coqui (Eneida's coqui)	PR.
2	D	R4	*Eleutherodactylus karlschmidti*	Leptodactylidae	Web-footed coqui	PR.
2	U	R1	*Ensatina eschscholtzii croceator*	Plethodontidae	Yellow-blotched ensatina	CA.
2	U	R1	*Ensatina eschscholtzii klauberi*	Plethodontidae	Large-blotched ensatina	CA.
2	S	R2	*Eurycea* sp.	Plethodontidae	Barton Springs salamander	TX.
2	U	R4	*Eurycea aquatica*	Plethodontidae	Dark-sided salamander	AL, TN.
2	U	R4	*Eurycea junaluska*	Plethodontidae	Junaluska salamander	NC.
2	U	R2	*Eurycea neotenes*	Plethodontidae	Texas salamander	TX.
2	S	R2	*Eurycea tridentifera*	Plethodontidae	Comal blind salamander	TX.
3C		R2	*Eurycea tynerensis*	Plethodontidae	Oklahoma salamander	AR, OK, MO.
2	U	R4	*Gyrinophilus palleucus*	Plethodontidae	Tennessee cave salamander (including Berry Cave salamander).	AL, GA, TN.
2	U	R5	*Gyrinophilus subterraneus*	Plethodontidae	West Virginia spring salamander	WV.
2	U	R4	*Haideotriton wallacei*	Plethodontidae	Georgia blind salamander	GA, FL.
2	U	R1	*Hydromantes brunus*	Plethodontidae	Limestone salamander	CA.
2	U	R1	*Hydromantes platycephalus*	Plethodontidae	Mount Lyell salamander	CA.
2	S	R1	*Hydromantes shastae*	Plethodontidae	Shasta salamander	CA.
2	U	R4	*Necturus* sp.	Proteidae	Black Warrior waterdog	AL.
2	U	R2	*Notophthalmus meridionalis*	Salamandridae	Black-spotted newt	TX, Mexico.
2	U	R4	*Plethodon caddoensis*	Plethodontidae	Caddo Mountain salamander	AR.
2	U	R1	*Plethodon elongatus*	Plethodontidae	Del Norte salamander	CA, OR.
2	U	R4	*Plethodon fourchensis*	Plethodontidae	Fourche Mountain salamander	AR.
2	S	R5	*Plethodon hubrichti*	Plethodontidae	Peaks of Otter salamander	VA.

Status		Lead Region	Scientific name	Family	Common name	Historic range
Category	Trend					
2	U	R1	*Plethodon larselli*	Plethodontidae	Larch Mountain salamander	OR, WA.
1	D	R2	*Plethodon neomexicanus*	Plethodontidae	Jemez Mountain salamander	NM.
2	S	R5	*Plethodon punctatus*	Plethodontidae	Cow Knob (=White-spotted) salamander	VA, WV.
2	U	R1	*Plethodon stormi* (=*P. elongatus s.*)	Plethodontidae	Siskiyou Mountains salamander	CA, OR.
2	U	R3	*Pseudacris streckeri illinoensis*	Hylidae	Illinois Strecker's chorus frog	AR, IL, MO.
2	U	R4	*Pseudobranchus striatus lustricolus*	Sirenidae	Gulf Hammock dwarf siren	FL.
2	D	R4	*Rana areolata aesopus*	Ranidae	Florida crawfish (=gopher) frog	FL, GA.
2	D	R4	*Rana areolata capito*	Ranidae	Carolina crawfish (=gopher) frog	GA, NC, SC.
1	D	R4	*Rana areolata sevosa*	Ranidae	Dusky crawfish (=gopher) frog	AL, FL, LA, MS.
2	U	R1	*Rana aurora aurora*	Ranidae	Northern red-legged frog	CA, OR, WA, Canada.
1	D	R1	*Rana aurora draytonii*	Ranidae	California red-legged frog	CA, Mexico.
2	D	R1	*Rana boylii*	Ranidae	Foothill yellow-legged frog	CA.
2	U	R1	*Rana cascadae*	Ranidae	Cascades frog	CA, OR, WA.
2	D	R2	*Rana chiricahuensis*	Ranidae	Chiricahua leopard frog	AZ, NM, Mexico.
2	D	R1	*Rana muscosa*	Ranidae	Mountain yellow-legged frog	CA, OR, NV.
2	S	R4	*Rana okaloosae*	Ranidae	Florida bog frog	FL.
3A		R2	*Rana onca (including R. fisheri)*	Ranidae	Relict (and Vegas Valley) leopard frog	AZ, NV, UT.
2	D	R6	*Rana pretiosa*	Ranidae	Spotted frog	CA, ID, MT, NV, OR, UT, WA, WY, Canada.
1	D	R2	*Rana tarahumarae*	Ranidae	Tarahumara frog	AZ, Mexico.
2	D	R2	*Rana yavapaiensis*	Ranidae	Lowland (=Yavapai & San Felipe) leopard frog.	AZ, CA, NM, UT, Mexico.
3A		R1	*Rana yavapaiensis*	Ranidae	Lowland leopard frog (San Felipe population).	CA.
2	S	R2	*Siren intermedia texana*	Sirenidae	Rio Grande lesser siren	TX, Mexico.
2	U	R2	*Typhlomolge robusta*	Plethodontidae	Robust (=Blanco) blind salamander	TX.
			FISHES			
2	U	R3	*Acipenser fulvescens*	Acipenseridae	Lake sturgeon	AL, AR, GA, IA, IL, IN, KS, KY, LA, MI, MN, MO, MS, NE, NY, OH, PA, SD, TN, VT, WI, WV, Canada.
PT	D	R4	*Acipenser oxyrhynchus desotoi*	Acipenseridae	Gulf sturgeon	AL, FL, GA, LA, MS.
1	D	R1	*Acipenser transmontanus*	Acipenseridae	White sturgeon, Kootenai River population.	ID.
2	U	R3	*Amblyopsis spelaea*	Amblyopsidae	Northern cavefish	IN, KY.
2	U	R4	*Ammocrypta asprella*	Percidae	Crystal darter	AL, AR, FL, IA, IL, IN, KY, LA, MN, MO, MS, OH, OK, TN, WI, WV.
2	S	R5	*Ammocrypta pellucida*	Percidae	Eastern sand darter	IL, IN, KY, MI, NY, OH, PA, VT, WV.
2	D	R1	*Archoplites interruptus*	Centrarchidae	Sacramento perch (native population)	CA.
2	D	R2	*Campostoma ornatum*	Cyprinidae	Mexican stoneroller	AZ, TX, Mexico.
2	U	R1	*Catostomus* sp.	Catostomidae	Wall Canyon sucker	NV.
2	U	R1	*Catostomus clarki* ssp.	Catostomidae	Meadow Valley Wash desert sucker	NV.
2	U	R1	*Catostomus clarki intermedius*	Catostomidae	White River desert sucker	NV.
2	U	R2	*Catostomus discobolus yarrowi*	Catostomidae	Zuni bluehead (=Mountain) sucker	AZ, NM.
2	D	R2	*Catostomus latipinnis*	Catostomidae	Flannelmouth sucker	AZ, CA, CO, NM, NV, UT, WY.
2	D	R1	*Catostomus occidentalis lacusanserinus*	Catostomidae	Goose Lake sucker	CA, OR.
2	U	R1	*Catostomus rimiculus* ssp.	Catostomidae	Jenny Creek sucker	OR.
2	D	R1	*Catostomus santaanae*	Catostomidae	Santa Ana sucker	CA.
2	D	R1	*Catostomus snyderi*	Catostomidae	Klamath largescale sucker	CA, OR.
3A		R3	*Coregonus johannae*	Salmonidae	Deepwater cisco	IL, IN, MI, MN, WI, Canada.
2	U	R3	*Coregonus kiyi*	Salmonidae	Kiyi	IL, IN, MI, MN, NY, WI, Canada.
2	U	R3	*Coregonus reighardi*	Salmonidae	Shortnose cisco	IL, IN, MI, NY, WI, Canada.
2	U	R3	*Coregonus zenithicus*	Salmonidae	Shortjaw cisco	IL, IN, MI, MN, WI, Canada.
2	S	R5	*Cottus* sp.	Cottidae	Bluestone sculpin	VA, WV.
2	U	R1	*Cottus asperrimus*	Cottidae	Rough sculpin	CA.
2	U	R1	*Cottus bairdi* ssp.	Cottidae	Malheur mottled sculpin	OR.
2	S	R1	*Cottus leiopomus*	Cottidae	Wood River sculpin	ID.
2	U	R1	*Cottus tenuis*	Cottidae	Slender sculpin	OR.
2	U	R1	*Crenichthys baileyi albivallis*	Cyprinodontidae	Preston White River springfish	NV.
2	S	R1	*Crenichthys baileyi moapa*	Cyprinodontidae	Moapa White River springfish	NV.
2	U	R1	*Crenichthys baileyi thermophilus*	Cyprinodontidae	Moorman White River springfish	NV.
2	S	R3	*Cycleptus elongatus*	Catostomidae	Blue sucker	AL, AR, IA, IL, IN, KS, KY, LA, MN, MO, MS, MT, ND, NE, NM, OH, OK, PA, SD, TN, TX, WI, WV, Mexico.
PT	D	R4	*Cyprinella caerulea* (=*Notropis caeruleus*).	Cyprinidae	Blue shiner	AL, GA, TN.
2	U	R4	*Cyprinella callitaenia* (=*Notropis c.*)	Cyprinidae	Bluestripe shiner	AL, FL, GA.
3A		R2	*Cyprinella lutrensis blairi*	Cyprinidae	Maravillas red shiner	TX.
2	U	R2	*Cyprinella proserpina* (=*Notropis proserpinus*).	Cyprinidae	Proserpine shiner	TX.
2	U	R2	*Cyprinodon* sp.	Cyprinodontidae	Palomas pupfish	NM, Mexico.
2	D	R2	*Cyprinodon eximius*	Cyprinodontidae	Conchos pupfish	TX, Mexico.

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Category	Trend					
2	U	R1	*Cyprinodon nevadensis calidae*	Cyprinodontidae	Tecopa pupfish	CA.
2	D	R1	*Cyprinodon nevadensis shoshone*	Cyprinodontidae	Shoshone pupfish	CA.
1	D	R2	*Cyprinodon pecosensis*	Cyprinodontidae	Pecos pupfish	NM, TX.
2	S	R2	*Cyprinodon tularosa*	Cyprinodontidae	White Sands pupfish	NM.
1	D	R2	*Dionda diaboli*	Cyprinidae	Devil's River minnow	TX.
1	S	R4	*Elassoma* sp.	Centrarchidae	Spring pygmy sunfish	AL.
2	S	R4	*Elassoma boehlkei*	Centrarchidae	Carolina (=barred) pygmy sunfish	NC, SC.
3C		R4	*Elassoma okatie*	Centrarchidae	Bluebarred pygmy sunfish	SC.
2	D	R5	*Etheostoma* sp.	Percidae	Duskytail darter	TN, VA.
2	U	R4	*Etheostoma* (*Doration*) sp.	Percidae	Jewel darter	TN.
2	S	R4	*Etheostoma* (*Ulocentra*) sp.	Percidae	Cherokee darter	GA.
2	U	R4	*Etheostoma aquali*	Percidae	Coppercheek darter	TN.
1	D	R6	*Etheostoma cragini*	Percidae	Arkansas darter	AR, CO, KS, MO, OK.
2	U	R4	*Etheostoma ditrema*	Percidae	Coldwater darter	AL, GA, TN.
2	D	R2	*Etheostoma grahami*	Percidae	Rio Grande darter	TX, Mexico.
3C	S	R4	*Etheostoma mariae*	Percidae	Pinewoods darter	NC, SC.
2	D	R4	*Etheostoma moorei*	Percidae	Yellowcheek darter	AR.
2	D	R4	*Etheostoma nigrum suzanae*	Percidae	Cumberland Johnny darter	KY.
2	D	R5	*Etheostoma osburni*	Percidae	Finescale saddled darter	VA, WV.
2	U	R4	*Etheostoma rupestre*	Percidae	Rock darter	AL, GA, MS.
2	U	R4	*Etheostoma striatulum*	Percidae	Striated darter	TN.
2	D	R4	*Etheostoma trisella*	Percidae	Trispot darter	AL, GA, TN.
2	U	R4	*Etheostoma tuscumbia*	Percidae	Tuscumbia darter	AL, TN.
1	D	R1	*Eucyclogobius newberryi*	Gobiidae	Tidewater goby	CA.
2	D	R4	*Fundulus julisia*	Cyprinodontidae	Barrens topminnow	TN.
2	D	R6	*Fundulus sciadicus*	Cyprinodontidae	Plains topminnow	SD, MN, IA, NE, CO, WY, KS, OK, MO.
2	U	R4	*Fundulus waccamensis*	Cyprinodontidae	Waccamaw killifish	NC.
2	D	R2	*Gambusia senilis*	Poeciliidae	Blotched gambusia	TX, Mexico.
3A		R2	*Gambusia amistadensis*	Cyprinodontidae	Amistad gambusia	TX.
2	D	R1	*Gasterosteus aculeatus santannae*	Gasterosteidae	Santa Ana threespine stickleback	CA.
3A		R1	*Gila alvordensis*	Cyprinidae	Alvord chub	NV, OR.
1	D	R1	*Gila bicolor* ssp.	Cyprindidae	High Rock Springs tui chub	CA.
2	U	R1	*Gila bicolor* ssp.	Cyprinidae	Big Smoky Valley tui chub	NV.
2	U	R1	*Gila bicolor* ssp.	Cyprinidae	Catlow tui chub	OR.
2	D	R1	*Gila bicolor* ssp.	Cyprinidae	Dixie Valley tui chub	NV.
2	U	R1	*Gila bicolor* ssp.	Cyprinidae	Fish Lake Valley tui chub	NV.
2	U	R1	*Gila bicolor* ssp.	Cyprinidae	Hot Creek Valley tui chub	NV.
2	U	R1	*Gila bicolor* ssp.	Cyprinidae	Pleasant Valley tui chub	NV.
2	S	R1	*Gila bicolor* ssp.	Cyprinidae	Railroad Valley tui chub	NV.
1	S	R1	*Gila bicolor* ssp.	Cyprinidae	Summer Basin tui chub	OR.
2	U	R1	*Gila bicolor euchila*	Cyprinidae	Fish Creek Springs tui chub	NV.
2	U	R1	*Gila bicolor eurysoma*	Cyprinidae	Sheldon tui chub	NV, OR.
2	U	R1	*Gila bicolor newarkensis*	Cyprinidae	Newark Valley tui chub	NV.
2	U	R1	*Gila bicolor obesa*	Cyprinidae	Lahontan Creek tui chub	NV.
2	U	R1	*Gila bicolor oregonensis*	Cyprinidae	XL Spring (=Oregon Lakes) tui chub	OR.
1	D	R1	*Gila bicolor vaccaceps*	Cyprinidae	Cowhead Lake tui chub	CA.
2	U	R1	*Gila copei*	Cyprinidae	Leatherside chub	ID, UT, WY.
2	S	R2	*Gila intermedia*	Cyprinidae	Gila chub	AZ, NM.
2	D	R2	*Gila robusta*	Cyprinidae	Roundtail chub	AZ, CA, CO, NM, NV, UT, WY, Mexico.
1	D	R2	*Hybognathus amarus*	Cyprinidae	Rio Grande silvery minnow	NM, TX, Mexico.
2	U	R2	*Hybopsis aestivalis tetranemus*	Cyprinidae	Arkansas River speckled chub	AR?CO, KS, NM, OK, TX.
2	D	R6	*Hybopsis gelida*	Cyprinidae	Sturgeon chub	AR, IA, IL, KY, KS, LA, MO, MS, MT, NE, ND, SD, WY, TN.
2	U	R4	*Hybopsis lineapunctata*	Cyprinidae	Lined chub	AL, GA, TN.
2	D	R6	*Hybopsis meeki*	Cyprinidae	Sicklefin chub	AR, IA, IL, KS, KY, LA, MO, MS, NE, ND, SD, TN.
PT	D	R1	*Hypomesus transpacificus*	Osmeridae	Delta smelt	CA.
2	D	R1	*Hysterocarpus traski pomo*	Embiotocidae	Russian River tule perch	CA.
1	D	R6	*Iotichthys phlegethontis*	Cyprinidae	Least chub	UT.
2	D	R1	*Lampetra hubbsi*	Petromyzontidae	Kern Brook lamprey	CA.
2	D	R1	*Lampetra tridentata* ssp.	Petromyzontidae	Goose Lake lamprey	CA, OR.
2	D	R1	*Lavinia symmetricus mitrulus*	Cyprinidae	Pit roach	CA, OR.
2	U	R1	*Lavinia symmetricus parvipinnis*	Cyprinidae	Gualala roach	CA.
1	D	R1	*Lentipes concolor*	Gobiidae	O'opu alamo'o	HI.
2	D	R6	*Lepidomeda mollispinis mollispinis*	Cyprinidae	Virgin spinedace	AZ, NV, UT.
2	D	R2	*Micropterus treculi*	Centrarchidae	Guadalupe bass	TX.
2	U	R4	*Moxostoma* sp.	Catostomidae	Bighead (=Savannah) redhorse	GA, SC.
2	U	R4	*Notropis* sp.	Cyprinidae	Palezone shiner	AL, KY, TN.
2	S	R4	*Notropis* sp.	Cyprinidae	Swamp shiner	FL.
2	U	R4	*Notropis asperifrons*	Cyprinidae	Burrhead shiner	AL, GA, TN.
2	D	R2	*Notropis buccula*	Cyprinidae	Smalleye shiner	TX.
2	D	R2	*Notropis chihuahua*	Cyprinidae	Chihuahua shiner	TX.
1	D	R2	*Notropis girardi*	Cyprinidae	Arkansas River shiner	AR, KS, NM, OK, TX.
2	D	R2	*Notropis jemezanus*	Cyprinidae	Rio Grande shiner	NM, TX, Mexico.
2	U	R4	*Notropis melanostomus*	Cyprinidae	Blackmouth shiner	FL, MS.
2	U	R2	*Notropis oxyrhyncus*	Cyprinidae	Sharpnose shiner	TX.

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Category	Trend					
2	U	R4	*Notropis ozarcanus*	Cyprinidae	Ozark shiner	AR, MO.
2	D	R5	*Notropis semperasper*	Cyprinidae	Roughhead shiner	VA.
2	U	R2	*Notropis snelsoni*	Cyprinidae	Ouachita Mountain shiner	AR, OK.
2	U	R6	*Notropis tristis* (=*topeka*)	Cyprinidae	Topeka shiner	IA, KS, MN, MO, NE, SD.
2	U	R4	*Notropis xaenurus*	Cyprinidae	Altamaha shiner	GA.
2	D	R4	*Noturus* sp.	Ictaluridae	Saddled madtom	TN.
2	S	R5	*Noturus gilberti*	Ictaluridae	Orangefin madtom	NC, VA.
2	D	R5	*Noturus insignis* ssp.	Ictaluridae	Spotted madtom	VA, NC.
2	S	R4	*Noturus lachneri*	Ictaluridae	Ouachita madtom	AR.
2	S	R4	*Noturus munitus*	Ictaluridae	Frecklebelly madtom	AL, GA, LA, MS, TN.
2	D	R4	*Noturus stanauli*	Ictaluridae	Pygmy madtom	TN.
2	S	R4	*Noturus taylori*	Ictaluridae	Caddo madtom	AR.
2	S	R1	*Novumbra hubbsi*	Umbridae	Olympic mudminnow	WA.
3A		R1	*Oncorhynchus* (=*Salmo*) *clarki* ssp.	Salmonidae	Alvord cutthroat trout	NV, OR.
2	U	R1	*Oncorhynchus* (=*Salmo*) *clarki* ssp.	Salmonidae	Snake River fine-spotted cutthroat trout	ID.
2	U	R1	*Oncorhynchus* (=*Salmo*) *clarki* ssp.	Salmonidae	Willow/Whitehorse cutthroat trout	OR.
2	D	R6	*Oncorhynchus* (=*Salmo*) *clarki pleuriticus*.	Salmonidae	Colorado River cutthroat trout	CO, UT, WY.
2	S	R6	*Oncorhynchus* (=*Salmo*) *clarki utah*	Salmonidae	Bonneville cutthroat trout	ID, UT, WY, NV.
2	D	R1	*Oncorhynchus* (=*Salmo*) *mykiss* ssp.	Salmonidae	Catlow Valley redband trout	OR.
2	D	R1	*Oncorhynchus* (=*Salmo*) *mykiss* ssp.	Salmonidae	Goose Lake redband trout	CA, OR.
2	D	R1	*Oncorhynchus* (=*Salmo*) *mykiss* ssp.	Salmonidae	McCloud River redband trout	CA.
2	D	R1	*Oncorhynchus* (=*Salmo*) *mykiss* ssp.	Salmonidae	Warner Valley redband trout	CA, OR, NV.
2	U	R1	*Oncorhynchus* (=*Salmo*) *mykiss agua-bonita*.	Salmonidae	Volcano Creek golden trout	CA.
2	D	R1	*Oncorhynchus* (=*Salmo*) *mykiss gibbsi*	Salmonidae	Interior redband trout	ID, MT, NV, OR.
2	D	R1	*Oncorhynchus* (=*Salmo*) *mykiss gilberti*	Salmonidae	Kern River rainbow trout	CA.
PE	D	R1	*Oregonichthys crameri* (=*Hybopsis c.*)	Cyprinidae	Oregon chub	OR.
2	D	R1	*Oregonichthys kalawatseti*	Cyprindidae	Umpqua oregon chub	OR.
2	U	R5	*Osmerus spectrum*	Osmeridae	Pygmy smelt	ME.
2	U	R4	*Percina* sp.	Percidae	Alabama channel darter	AL.
2	U	R4	*Percina* sp.	Percidae	Pearl channel darter	LA, MS.
2	U	R4	*Percina* sp. ssp.	Percidae	Warrior bridled darter	AL.
PT	D	R4	*Percina aurolineata*	Percidae	Goldline darter	AL, GA.
2	U	R3	*Percina cymatotaenia*	Percidae	Bluestripe darter	MO.
2	U	R4	*Percina lenticula*	Percidae	Freckled darter	AL, GA, LA, MS.
2	D	R5	*Percina macrocephala*	Percidae	Longhead darter	KY, NC, NY, OH, PA, TN, VA, WV.
2	U	R4	*Percina nasuta*	Percidae	Longnose darter	AR, MO, OK.
2	U	R4	*Percina palmaris*	Percidae	Bronze darter	AL, GA, TN.
2	U	R4	*Percina squamata*	Percidae	Olive darter	GA, KY, TN.
2	U	R4	*Percina uranidea*	Percidae	Stargazing darter	AR, IL, IN, LA, MO.
2	S	R5	*Phenacobius teretulus*	Cyprinidae	Kanawha minnow	NC, VA, WV.
3A		R1	*Pogonichthys ciscoides*	Cyprinidae	Clear Lake splittail	CA.
2	D	R1	*Pogonichthys macrolepidotus*	Cyprinidae	Sacramento splittail	CA.
2	U	R6	*Polyodon spathula*	Polyodontidae	Paddlefish	AL, AR, IA, IL, IN, KS, KY, LA, MN, MO, MS, MT, ND, NE, OH, OK, PA, SD, TN, TX, WI.
2	S	R1	*Relictus solitarius*	Cyprinidae	Relict dace	NV.
2	U	R5	*Rhinichthys bowersi*	Cyprinidae	Cheat minnow	MD, PA, WV.
2	U	R1	*Rhinichthys osculus* ssp.	Cyprinidae	Amargosa Canyon speckled dace	CA.
2	U	R1	*Rhinichthys osculus* ssp.	Cyprinidae	Diamond Valley speckled dace	NV.
2	U	R1	*Rhinichthys osculus* ssp.	Cyprinidae	Meadow Valley Wash speckled dace	NV.
2	U	R1	*Rhinichthys osculus* ssp.	Cyprinidae	Monitor Valley speckled dace	NV.
2	U	R1	*Rhinichthys osculus* ssp.	Cyprinidae	Oasis Valley speckled dace	NV.
2	D	R1	*Rhinichthys osculus* ssp.	Cyprinidae	Owens speckled dace	CA.
2	D	R1	*Rhinichthys osculus* ssp.	Cyprinidae	Santa Ana speckled dace	CA.
2	U	R1	*Rhinichthys osculus* ssp.	Cyprinidae	White River speckled dace	NV.
2	S	R1	*Rhinichthys osculus moapae*	Cyprinidae	Moapa speckled dace	NV.
2	D	R1	*Rhinichthys osculus velifer*	Cyprinidae	Pahranagat speckled dace	NV.
2	D	R5	*Salmo salar*	Salmonidae	Atlantic salmon (Dennys, Machias, East Machias, Narraguagus, and Pleasant River populations).	ME
2	U	R1	*Salvelinus confluentus*	Salmonidae	Bull trout	CA, ID, MT, NV, OR, WA
2	U	R2	*Satan eurystomus*	Ictaluridae	Widemouth blindcat	TX.
1	D	R4	*Scaphirhynchus platorynchus* ssp.	Acipenseridae	Alabama shovelnose sturgeon	AL, MS.
3C		R4	*Semotilus lumbee*	Cyprinidae	Sandhills chub	NC, SC.
3A		R3	*Stizostedion vitreum glaucum*	Percidae	Blue pike	MI, NY, OH, PA, Canada.
1	D	R6	*Thymallus arcticus montanus*	Salmonidae	Montana Arctic grayling	MT.
2	U	R2	*Troglogianis pattersoni*	Ictaluridae	Toothless blindcat	TX.
			INVERTEBRATES			
			CLAMS & MUSSELS (MOLLUSKS, CLASS BIVALVIA).			
2	U	R4	*Alasmidonta arcula* (Lea, 1838)	Unionidae	Altamaha arc-mussel	GA.
2	D	R4	*Alasmidonta atropurpurea* (Rafinesque, 1831).	Unionidae	Cumberland elktoe (mussel)	KY, TN.

Status		Lead Region	Scientific name	Family	Common name	Historic range
Category	Trend					
2	S	R4	*Alasmidonta raveneliana* (Lea, 1834)	Unionidae	Appalachian elktoe (mussel)	NC.
2	D	R5	*Alasmidonta varicosa* (Lamarck, 1819)	Unionidae	Brook floater (mussel)	CT, GA, MA, MD, ME, NC, NH, NJ, NY, PA, SC, VA, VT, WV, Canada.
2	U	R4	*Alasmidonta wrightiana* (Walker, 1901)	Unionidae	Florida arc-mussel	FL.
2	U	R4	*Amblema neislerii* (I.Lea, 1858)	Unionidae	Fat three-ridge (mussel)	FL, GA.
2	D	R2	*Anodonta californiensis* Lea, 1852	Unionidae	California floater (mussel)	AZ, CA, ID, NV, OR, WA, UT, Canada, Mexico
2	D	R4	*Cumberlandia monodonta* (Say, 1929)	Margaritiferidae	Spectacle case (pearly mussel)	AL, AR, IA, IN, IL, KY, MO, NE?, OH, TN, VA, WI.
2	U	R4	*Cyprogenia aberti* (Conrad, 1850)	Unionidae	Western fanshell (=western fan-shell pearly mussel).	AR, KS, MO, OK.
2	U	R2	*Disconaias salinasensis* (Simpson, 1908)	Unionidae	Salina mucket (mussel)	TX, Mexico.
2	S	R4	*Elliptio* sp.	Unionidae	Waccamaw lance pearlymussel	NC.
2	D	R4	*Elliptio judithae* (Clark, 1986)	Unionidae	Neuse slabshell (mussel)	NC.
2	D	R4	*Elliptio lanceolata* (I. Lea, 1828)	Unionidae	Yellow lance (mussel)	NC, VA.
2	D	R4	*Elliptio marsupiobesa* Fuller, 1972	Unionidae	Cape Fear spike (mussel)	NC.
2	U	R4	*Elliptio nigella* (Lea, 1852)	Unionidae	Winged spike (=recovery pearly mussel)	AL, GA.
2	U	R4	*Elliptio shepardiana* (I.Lea, 1834)	Unionidae	Altamaha lance (mussel)	GA.
2	U	R4	*Elliptio spinosa* (Lea, 1836)	Unionidae	Altamaha spinymussel (=Georgia spiny mussel).	GA.
2	S	R4	*Elliptio waccamawensis* (Lea, 1863)	Unionidae	Waccamaw spike (mussel)	NC.
2	U	R4	*Elliptoideus sloatianus* (I.Lea, 1840)	Unionidae	Purple bankclimber (mussel)	AL, GA, FL.
3A		R4	*Epioblasma biemarginata* (Lea, 1857)	Unionidae	Angled riffleshell	AL*, TN*.
2	D	R4	*Epioblasma brevidens* (Lea, 1831)	Unionidae	Cumberlandian combshell	AL, KY, TN, VA.
2	D	R4	*Epioblasma capsaeformis* (Lea, 1834)	Unionidae	Oyster mussel	AL, KY, TN, VA.
3A		R4	*Epioblasma haysiana* (Lea, 1834)	Unionidae	Acornshell (=acorn pearly mussel)	AL*, TN*, VA*.
3A		R4	*Epioblasma lewisi* (Walker, 1910)	Unionidae	Forkshell (=Lewis' pearly mussel)	AL*, TN*, KY*.
PE	U	R4	*Epioblasma metastriata* (Conrad, 1840)	Unionidae	Upland combshell (mussel)	AL, GA.
PE	U	R4	*Epioblasma othcaloogensis* (I.Lea, 1857)	Unionidae	Southern acornshell (mussel)	GA.
3A		R4	*Epioblasma propinqua* (Lea, 1857)	Unionidae	Tennessee riffleshell (=nearby pearly mussel).	AL*, TN*.
1	D	R5	*Epioblasma torulosa rangiana* (I.Lea, 1839).	Unionidae	Northern riffleshell (mussel)	IL, IN, KY, MI, OH, PA, WV, Canada.
2	D	R4	*Epioblasma triquetra* (Rafinesque, 1820)	Unionidae	Snuffbox mussel	AL, IA, IL, IN, KS, KY, MS, MI, MO, OH, PA, TN, VA, WI, WV, Canada.
2	U	R4	*Fusconia escambia* (Clench and Turner, 1956).	Unionidae	Narrow pigtoe (mussel)	AL, FL.
2	D	R4	*Fusconia masoni* (Conrad, 1834)	Unionidae	Atlantic pigtoe (mussel)	GA, NC, SC, VA.
PT	U	R4	*Lampsilis altilis* (Conrad, 1834)	Unionidae	Fine-lined pocketbook (mussel)	AL, GA.
2	U	R4	*Lampsilis australis* (Simpson, 1900)	Unionidae	Southern sandshell (mussel)	AL, FL.
2	U	R4	*Lampsilis binominata* (Simpson, 1900)	Unionidae	Lined pocketbook (mussel)	AL, GA.
2	D	R5	*Lampsilis cariosa* (Say, 1817)	Unionidae	Yellow lampmussel	CT, GA, MA, MD, ME, NC, NH, NJ, NY, PA, SC, VA, VT, Canada.
2	S	R4	*Lampsilis fullerkati* R. I. Johnson, 1984	Unionidae	Waccamaw fatmucket (mussel)	NC.
PT	U	R4	*Lampsilis perovalis* (Conrad, 1834)	Unionidae	Orange-nacre mucket (mussel)	AL, GA, MS.
2	U	R4	*Lampsilis rafinesqueana* Frierson, 1927	Unionidae	Neosho mucket (=Neosho pearly mussel).	AR, KS, MO, OK.
2	U	R4	*Lampsilis subangulata* (I.Lea, 1840)	Unionidae	Shiny-rayed pocketbook (mussel)	AL, FL, GA.
2	D	R4	*Lasmigona* sp.	Unionidae	Barrens heelsplitter (mussel)	TN.
2	D	R4	*Lasmigona holstonia* (Lea, 1838)	Unionidae	Tennessee heelsplitter (mussel)	AL, GA, IL, IN, KY, TN, VA.
2	D	R5	*Lasmigona subviridis* (Conrad, 1835)	Unionidae	Green floater (mussel)	MD, NC, NJ, NY, PA, SC, VA, WV.
2	D	R4	*Lasmigonia decorata* (Lea, 1852))	Unionidae	Carolina heelsplitter (mussel)	NC, SC.
2	U	R3	*Leptodea leptodon* (Rafinesque, 1820)	Unionidae	Scaleshell (mussel)	AR, IA, IL, IN, KY, MO, OH, OK, SD.
2	D	R4	*Lexingtoni dolabelloides* (Lea, 1840)	Unionidae	Slabside pearlymussel	AL, TN, VA.
2	U	R4	*Margaritifera marrianae* Johnson, 1983	Margaritiferidae	Alabama pearlshell	AL.
PT	U	R4	*Medionidus acutissimus* (Lea, 1831)	Unionidae	Alabama moccasinshell (mussel)	AL, GA, MS.
PE	U	R4	*Medionidus parvulus* (Lea, 1860)	Unionidae	Coosa moccasinshell (mussel)	AL, GA, TN.
2	U	R4	*Obovaria rotulata* (Wright, 1899)	Unionidae	Round ebonyshell (mussel)	AL, FL.
2	U	R2	*Pisidium sanquinichristi* Taylor, 1987	Sphaeriidae	Sangre de Cristo peaclam	NM.
2	U	R1	*Pisidium ultramontanum* Prime, 1865	Sphaeriidae	(Peaclam, no common name)	CA, OR.
1	D	R5	*Pleurobema clava* (Lamarck, 1819)	Unionidae	Clubshell (mussel)	AL, IL, IN, KY, MI, OH, PA, TN, WV.
PE	U	R4	*Pleurobema decisum* (Lea, 1831)	Unionidae	Southern clubshell (mussel)	AL, GA, MS.
PE	U	R4	*Pleurobema furvum* (Conrad, 1834)	Unionidae	Dark pigtoe (mussel)	AL.
PE	U	R4	*Pleurobema georgianum* (Lea, 1841)	Unionidae	Southern clubshell (mussel)	AL, GA, MS, TN.
2	D	R4	*Pleurobema oviforme* (Conrad, 1834)	Unionidae	Tennessee clubshell (mussel)	KY, TN, VA.
PE	U	R4	*Pleurobema perovatum* (Conrad, 1834)	Unionidae	Ovate clubshell (mussel)	MS, AL, GA.
2	U	R4	*Pleurobema pyriforme* (I.Lea, 1857)	Unionidae	Oval pigtoe (mussel)	AL, FL, GA.
2	D	R4	*Pleurobema rubellum* (Conrad, 1834)	Unionidae	Warrior pigtoe (mussel)	AL.
2	D	R4	*Pleurobema rubrum* (Rafinesque, 1820)	Unionidae	Pink pigtoe (mussel)	AL, KY, MS, TN.
2	D	R4	*Pleurobema vernum* (I.Lea, 1860)	Unionidae	True pigtoe (mussel)	AL.
2	U	R2	*Popenaias popei* (I.Lea, 1857)	Unionidae	Texas hornshell (mussel)	NM, TX, Mexico.
2	U	R2	*Potamilus amphichaenus* (Frierson, 1898)	Unionidae	Texas heelsplitter (mussel)	LA, TX.
PE	D	R6	*Ptychobranchus greeni* (Conrad, 1834)	Unionidae	Triangular kidneyshell (mussel)	AL, GA, TN.

Status		Lead Region	Scientific name	Family	Common name	Historic range
Category	Trend					
2	U	R4	*Ptychobranchus jonesi* (van der Schalie, 1934).	Unionidae	Southern kidneyshell (mussel)	AL, FL.
2	D	R6	*Ptychobranchus occidentalis* (Conrad, 1836).	Unionidae	Ouachita kidneyshell (mussel)	AR, KS, MO, OK.
2	D	R4	*Quadrula cylindrica strigillata* (B.H.Wright, 1898).	Unionidae	Rough rabbitsfoot (mussel)	KY, TN, VA.
2	U	R2	*Quincuncina mitchelli* (Simpson, 1896)	Unionidae	False spike (mussel)	TX.
2	D	R5	*Simpsonaias ambigua* (Say, 1825)	Unionidae	Salamander mussel	AR, IA, IL, IN, KY, MI, MO, NY, OH, TN, PA, WI, WV, Canada.
2	D	R4	*Toxolasma lividus* (Rafinesque, 1831)	Unionidae	Purple lilliput (mussel)	IL, IN, KY, MI, MO, OH, TN.
2	U	R4	*Toxolasma pullus* (Conrad, 1838)	Unionidae	Savannah lilliput (mussel)	GA, NC, SC.
2	U	R2	*Truncilla cognata* (I.Lea, 1860)	Unionidae	Mexican fawnsfoot (mussel)	TX, Mexico.
2	U	R4	*Villosa choctaensis* Athearn, 1964	Unionidae	Choctaw bean (=Choctaw pearly mussel).	AL, FL.
2	D	R5	*Villosa fabalis* (Lea, 1831)	Unionidae	Rayed bean (mussel)	AL, IL, IN, KY, MI, OH, TN, PA, VA, WV, Canada.
2	D	R4	*Villosa ortmanni* (Walker, 1925)	Unionidae	Kentucky creekshell (=Ortman's pearly mussel).	KY.
2	D	R4	*Villosa perpurpurea* (Lea, 1861)	Unionidae	Purple bean (=Fine-rayed purple pearly mussel).	TN, VA.
			SNAILS (MOLLUSKS, CLASS GASTROPODA).			
PE	S	R1	Genus and species undescribed	Hydrobiidae	Bruneau Hot Springs snail	ID.
2	U	R1	Genus and species undescribed	Hydrobiidae	Virile Amargosa snail	NV.
PE	S	R1	Genus and species undescribed	Hydrobiidae	Bliss Rapids snail	ID.
2	D	R6	*Acroloxus coloradensis* (J. Henderson, 1930).	Acroloxidae	Rocky Mountain capshell (snail)	MT, CO.
2	U	R1	*Algamorda newcombiana* (=*Littorina subrotunda*) (Carpenter, 1865).	Littorinidae	Newcomb's littorine snail	CA, WA, OR.
2	U	R1	*Ammonitella yatesi* Cooper, 1868	Ammonitellidae	Tight coin (=Yate's snail)	CA.
2	U	R4	*Amphigyra alabamensis* Pilsbry, 1906	Planorbidae	Shoal sprite (snail)	AL.
1	D	R3	*Antrobia culveri* (Hubricht, 1971)	Hydrobiidae	Tumbling Creek cavesnail	MO.
2	U	R4	*Antrorbis breweri* Herschler & Thompson, 1990.	Hydrobiidae	(Snail, no common name)	AL.
2	U	R2	*Apachecoccus arizonae* Taylor, 1987	Hydrobiidae	Bylas springsnail	AZ.
2	U	R4	*Aphaostracon asthenes* (Thompson, 1968).	Hydrobiidae	Blue Spring hydrobe (snail)	FL.
2	U	R4	*Aphaostracon monas* (Pilsbry, 1899)	Hydrobiidae	Wekiwa hydrobe (snail)	FL.
2	U	R4	*Aphaostracon pycnus* (Thompson, 1968)	Hydrobiidae	Dense hydrobe (snail)	FL.
2	U	R4	*Aphaostracon xynoelictus* (Thompson, 1968).	Hydrobiidae	Fenney Spring hydrobe (snail)	FL.
2	U	R2	*Ashmunella hebardi* Pilsbry & Manatta, 1923.	Polygyridae	Hacheta Grande woodlandsnail	NM.
2	U	R2	*Ashmunella macromphala* Vagvolgyi, 1974.	Polygyridae	Cook's Peak woodlandsnail	NM.
2	U	R2	*Ashmunella pasonis* (Drake, 1951)	Polygyridae	Franklin Mountain wood snail	TX.
2	U	R1	*Assiminea infima* Berry, 1947	Assimineidae	Badwater snail	CA.
1	U	R2	*Assiminea pecos* Taylor, 1987	Assimineidae	Pecos assiminea snail	NM, TX, Mexico.
2	U	R1	*Binneya notabilis* Cooper, 1863	Arionidae	Santa Barbara shelled slug (=Slug snail)	CA.
2	U	R1	*Carelia* ca 12 spp.	Amastridae	Genus (Snails, no common names)	HI*.
2	U	R3	*Catinella gelida* (Baker, 1927)	Succineidae	(Snail, no common name)	IA.
2	U	R4	*Cincinnatia helicogyra* (Thompson, 1968)	Hydrobiidae	Crystal siltsnail (=helicoid spring snail)	FL.
2	U	R4	*Cincinnatia mica* (Thompson, 1968)	Hydrobiidae	Ichetucknee siltsnail	FL.
2	U	R4	*Cincinnatia monroensis* (Dall, 1885)	Hydrobiidae	Enterprise siltsnail	FL.
2	U	R4	*Cincinnatia parva* (Thompson, 1968)	Hydrobiidae	Pygmy siltsnail	FL.
2	U	R4	*Cincinnatia ponderosa* (Thompson, 1968)	Hydrobiidae	Ponderous siltsnail (=Ponderous spring snail).	FL.
2	U	R4	*Cincinnatia vanhyningi* (Vanatta, 1934)	Hydrobiidae	Seminole siltsnail (=Seminole Spring snail).	FL.
2	U	R4	*Cincinnatia wekiwae* (Thompson, 1968)	Hydrobiidae	Wekiwa siltsnail (=Wekiwa Spring snail)	FL.
2	U	R4	*Clappia cahabensis* Clench, 1965	Hydrobiidae	Cahaba pebblesnail	AL.
2	U	R4	*Clappia umbilicata* (Walker, 1904)	Hydrobiidae	Umbilicate pebblesnail	AL.
2	U	R2	*Cochliopa texana* Pilsbry, 1935	Hydrobiidae	Phantom cave snail	TX.
2	U	R1	*Cryptomastix magnidentata* (=*Tridopsis mullani m.*) (Pilsbry, 1940).	Polygyridae	Mission Creek oregonian (snail)	ID.
2	U	R1	*Diastole matafaoi* H.B. Baker, 1938	Helicarionidae	Mt. Matafao different snail	American Samoa.
2	U	R1	*Discus marmorensis* H.B. Baker, 1932	Discidae	Marbled disc (snail)	ID.
2	U	R6	*Discus shimeki cockerelli* (Piisbry, 1898)	Discidae	Cockerell's striate disc (snail)	SD.
2	U	R4	*Elimia alabamensis* (I. Lea, 1861)	Pleuroceridae	Mud elimia (snail)	AL.
2	U	R4	*Elimia albanyensis* (*Goniobasis a.*) (Lea, 1864).	Pleuroceridae	Black-crest elima (=Albany snail)	FL.
2	U	R4	*Elimia ampla* (Anthony, 1854)	Pleuroceridae	Ample elimia (snail)	AL.
2	U	R4	*Elimia annettae* (Goodrich, 1941)	Pleuroceridae	Lily Shoals elimia (snail)	AL.
2	U	R4	*Elimia annulifera* (Conrad, 1834)	Pleuroceridae	(Snail, no common name)	AL.
2	U	R4	*Elimia bellula* (I. Lea, 1861)	Pleuroceridae	Walnut elimia (snail)	AL.
2	U	R4	*Elimia boykiniana* (I. Lea, 1840)	Pleuroceridae	Flaxen elimia (snail)	AL.
2	U	R4	*Elimia brevis* (Reeve, 1860)	Pleuroceridae	Short-spire elimia (snail)	AL.

Status		Lead Region	Scientific name	Family	Common name	Historic range
Category	Trend					
2	U	R4	*Elimia cahawbensis* (I. Lea, 1841)	Pleuroceridae	Cahaba elimia (snail)	AL.
2	U	R4	*Elimia capillaris* (I. Lea, 1861)	Pleuroceridae	Spindle elimia (snail)	AL.
2	U	R4	*Elimia crenatella* (I. Lea, 1860)	Pleuroceridae	Lacy elimia (snail)	AL.
2	U	R4	*Elimia fascinans* (I. Lea, 1861)	Pleuroceridae	Banded elimia (snail)	AL.
2	U	R4	*Elimia fusiformis* (I. Lea, 1861)	Pleuroceridae	Fusiform elimia (snail)	AL.
2	U	R4	*Elimia gerhardti* (I. Lea, 1862)	Pleuroceridae	Coldwater elimia (snail)	AL.
2	U	R4	*Elimia hartmaniana* (I. Lea, 1861)	Pleuroceridae	High-spired elimia (snail)	AL.
2	U	R4	*Elimia haysiana* (I. Lea, 1843)	Pleuroceridae	Silt elimia (snail)	AL.
2	U	R4	*Elimia hydei* (Conrad, 1834)	Pleuroceridae	Gladiator elimia (snail)	AL.
2	U	R4	*Elimia impressa* (I. Lea, 1841)	Pleuroceridae	Constricted elimia (snail)	AL.
2	U	R4	*Elimia interveniens* (I. Lea, 1862)	Pleuroceridae	Slowwater elimia (snail)	AL.
2	U	R4	*Elimia jonesi* (Goodrich, 1936)	Pleuroceridae	Hearty elimia (snail)	AL.
2	U	R4	*Elimia laeta* (Jay, 1839)	Pleuroceridae	Ribbed elimia (snail)	AL.
2	U	R4	*Elimia nassula* (Conrad, 1834)	Pleuroceridae	Round-rib elimia (snail)	AL.
2	U	R4	*Elimia olivula* (Conrad, 1834)	Pleuroceridae	Caper elimia (snail)	AL.
2	U	R4	*Elimia pilsbryi* (Goodrich, 1927)	Pleuroceridae	Rough-lined elimia (snail)	AL.
2	U	R4	*Elimia pupaeformis* (I. Lea, 1864)	Pleuroceridae	Pupa elimia (snail)	AL.
2	U	R4	*Elimia pygmaea* (H. H. Smith, 1936)	Pleuroceridae	Pygmy elimia (snail)	AL.
2	U	R4	*Elimia showalteri* (I. Lea, 1860)	Pleuroceridae	Compact elimia (snail)	AL.
2	U	R4	*Elimia vanuxemiana* (I. Lea, 1843)	Pleuroceridae	Cobble elimia (snail)	AL.
2	U	R4	*Elimia varians* (I. Lea, 1861)	Pleuroceridae	Puzzle elimia (snail)	AL.
2	U	R4	*Elimia variata* (I. Lea, 1861)	Pleuroceridae	Squat elimia (snail)	AL.
2	U	R1	*Eremarionta immaculata* (=*Micrarionta i.*) (Willet, 1937).	Helminthoglyptidae	White desertsnail	CA.
2	U	R1	*Eremarionta millepalmarum* (=*Micrarionta m.*) (Berry, 1930).	Helminthoglyptidae	Thousand Palms desertsnail	CA.
2	U	R1	*Eremarionta morogoana* (=*Micrarionta m.*) (Berry, 1929).	Helminthoglyptidae	Morongo (=Colorado) desertsnail	CA.
2	U	R2	*Euchemotrema cheatumi* (=*Stenotrema leai cheatumi*) (Fullington, 1974).	Polygyridae	Palmetto pillsnail	TX.
2	U	R3	*Euchemotrema hubrichti* (=*Stenotrema h.*) (Pilsbry, 1940).	Polygyridae	Carinate pillsnail	IL.
2	U	R4	*Ferissia mcneili* Walker, 1925	Ancylidae	Hood ancylid (snail)	AL.
2	U	R1	*Fluminicola avernalis* (Pilsbry, 1935)	Hydrobiidae	Moapa pebblesnail (=Muddy Valley turban snail).	NV.
2	U	R1	*Fluminicola columbianus* (=*Lithoglyphus c.*) (Hemphill in Pilsbry, 1899).	Hydrobiidae	Columbia pebblesnail (=Great Columbia River spire snail).	ID, OR, WA.
2	U	R1	*Fluminicola merriami* (Pilsbry & Belcher, 1892).	Hydrobiidae	Pahranagat pebblesnail (=Pahranagat Valley turban snail).	NV.
3C	I	R1	*Fisherola nuttalli* (Haldeman, 1841)	Lymnaeidae	Shortface lanx (=giant Columbia River limpet).	ID, OR, WA.
1	S	R2	*"Fontelicella" chupaderae* Taylor, 1987	Hydrobiidae	Chupadera springsnail	NM.
2	U	R2	*"Fontelicella" davisi* Taylor, 1987	Hydrobiidae	Davis County springsnail	TX.
1	S	R2	*"Fontelicella" gilae* Taylor, 1987	Hydrobiidae	Gila springsnail	NM.
PE	S	R1	*Fontelicella* (=*Pyrgulopsis*) *idahoensis* (Pilsbry, 1933).	Hydrobiidae	Idaho springsnail	ID.
2	U	R2	*"Fontelicella" metcalfi* Taylor, 1987	Hydrobiidae	Presidio County springsnail	TX.
1	S	R2	*"Fontelicella" pecosensis* Taylor, 1987	Hydrobiidae	Pecos springsnail	NM.
1	S	R2	*"Fontelicella" roswellensis* Taylor, 1987	Hydrobiidae	Roswell springsnail	NM.
1	S	R2	*"Fontelicella" thermalis* Taylor, 1987	Hydrobiidae	New Mexico hotspring snail	NM.
2	U	R2	*"Fontelicella" trivialis* (Taylor, 1987)	Hydrobiidae	Three Forks springsnail	AZ.
2	U	R5	*Fontigens holsingeri* (Hubricht, 1976)	Hydrobiidae	Tapered cavesnail	WV.
2	U	R5	*Fontigens turritella* (Hubricht, 1976)	Hydrobiidae	Greenbrier cavesnail	WV.
2	U	R2	*Gastrocopta dalliana dalliana* Sterki, 1898	Pupillidae	Shortneck snaggletooth (snail)	NM.
2	U	R4	*Glyphyalinia clingmani* (Dall, 1890)	Zonitidae	Fragile supercoil (snail)	NC
2	U	R4	*Glyphyalinia pecki* Hubricht, 1966	Zonitidae	Blind glyph (snail)	AL.
2	D	R5	*Glyphyalinia raderi* (Dall, 1898)	Zonitidae	Maryland glyph (snail)	KY, MD, VA, WV.
2	U	R4	*Goniobasis* (=*Elimia*) *interrupta* (Haldeman, 1840).	Pleuroceridae	Knotty elimia (snail)	NC, TN.
2	U	R4	*Gyrotoma excisa* (I. Lea, 1843)	Pleuroceridae	Excised slitshell	AL.
2	U	R4	*Gyrotoma lewisi* (I. Lea, 1869)	Pleuroceridae	Striate slitshell	AL.
2	U	R4	*Gyrotoma pagoda* (I. Lea, 1845)	Pleuroceridae	Pagoda slitshell	AL.
2	U	R4	*Gyrotoma pumila* (I. Lea, 1860)	Pleuroceridae	Ribbed slitshell	AL.
2	U	R4	*Gyrotoma pyramidata* (Shuttleworth, 1845).	Pleuroceridae	Pyramid slitshell	AL.
2	U	R4	*Gyrotoma walkeri* (H. H. Smith, 1924)	Pleuroceridae	Round slitshell	AL.
2	U	R5	*Helicodiscus diadema* Grimm, 1967	Helicodiscidae	Shaggy coil (snail)	VA.
2	U	R4	*Helicodiscus hexodon* Hubricht, 1966	Helicodiscidae	Toothy coil (snail)	TN.
2	U	R6	*Helisoma jacksonense* (*Carinifex*) (Henderson, 1932).	Planorbidae	Jackson Lake snail	WY.
2	U	R1	*Helminthoglypta allynsmithi* (Pilsbry, 1939).	Helminthoglyptidae	Merced Canyon shoulderband (=Allyn Smith's banded snail).	CA.
2	U	R1	*Helminthoglypta arrosa pomoensis* (A. G. Smith, 1938).	Helminthoglyptidae	Pomo bronze shoulderband (snail)	CA.
2	U	R1	*Helminthoglypta arrosa williamsi* (A. G. Smith, 1938).	Helminthoglyptidae	Williams' bronze shoulderband (snail)	CA.
2	U	R1	*Helminthoglypta callistoderma* (Pilsbry & Ferris, 1918).	Helminthoglyptidae	Kern shoulderband (snail)	CA.

Status		Lead Region	Scientific name	Family	Common name	Historic range
Category	Trend					
2	U	R1	*Helminthoglypta mohaveena* (Berry, 1927).	Helminthoglyptidae	Victorville shoulderband (snail)	CA.
2	U	R1	*Helminthoglypta nickliniana awania* (Bartsch, 1919).	Helminthoglyptidae	(Nicklin's) Peninsula Coast Range shoulderband (snail).	CA
2	U	R1	*Helminthoglypta nickliniana bridgesi* (Newcomb, 1861).	Helminthoglyptidae	Bridges' Coast Range shoulderband (snail).	CA.
2	U	R1	*Helminthoglypta sequoicola consors* (Berry, 1938).	Helminthoglyptidae	Redwood shoulderband (snail, no subspecific name).	CA.
2	U	R1	*Helminthoglypta traski coelata* (Bartsch, 1916).	Helminthoglyptidae	Peninsular Range shoulderband (snail, no subspecific name).	CA.
1	D	R1	*Helminthoglypta walkeriana* (Hemphill, 1911).	Helminthoglyptidae	Morro shoulderband (=Banded dune snail).	CA.
2	I	R5	*Io fluvialis* (Say, 1834)	Pleuroceridae	Spiny riversnail	TN, VA.
PE	S	R1	*Lanx* sp.	Lymnaeidae	Banbury Springs limpet	ID.
2	U	R4	*Leptoxis ampla* (Anthony, 1855)	Pleuroceridae	Round rocksnail	AL.
2	U	R4	*Leptoxis clipeata* (H. H. Smith, 1922)	Pleuroceridae	Agate rocksnail	AL.
2	U	R4	*Leptoxis compacta* (Anthony, 1854)	Pleuroceridae	Oblong rocksnail	AL.
2	U	R4	*Leptoxis crassa* (=*Athearnia c.*) (Haldeman, 1841).	Pleuroceridae	Boulder (=crass river) snail	AL, GA, TN.
2	U	R4	*Leptoxis formanii* (I. Lea, 1843)	Pleuroceridae	Interrupted rocksnail	AL.
2	U	R4	*Leptoxis formosa* (I. Lea, 1860)	Pleuroceridae	Maiden rocksnail	AL.
2	U	R4	*Leptoxis ligata* (Anthony, 1860)	Pleuroceridae	Rotund rocksnail	AL.
2	U	R4	*Leptoxis lirata* (H. H. Smith, 1922)	Pleuroceridae	Lyrate rocksnail	AL.
2	U	R4	*Leptoxis melanoidus* (Conrad, 1834)	Pleuroceridae	Black mudalia (snail)	AL.
2	U	R4	*Leptoxis minor* (Hinckley, 1912)	Pleuroceridae	Knob mudalia (snail)	AL.
2	U	R4	*Leptoxis occulata* (H. H. Smith, 1922)	Pleuroceridae	Bigmouth rocksnail	AL.
2	U	R4	*Leptoxis picta* (Conrad, 1834)	Pleuroceridae	Spotted rocksnail	AL.
2	U	R4	*Leptoxis plicata* (Conrad, 1834)	Pleuroceridae	Plicate rocksnail	AL.
2	U	R4	*Leptoxis praerosa* (Say, 1821)	Pleuroceridae	Onyx rocksnail (=mainstream river snail)	KY, TN.
2	U	R4	*Leptoxis showalteri* (I. Lea, 1860)	Pleuroceridae	Coosa rocksnail	AL.
2	U	R4	*Leptoxis taeniata* (Conrad, 1834)	Pleuroceridae	Painted rocksnail	AL.
2	U	R4	*Leptoxis virgata* (I. Lea, 1841)	Pleuroceridae	Smooth rocksnail	AL, TN, NC.
2	U	R4	*Leptoxis vittata* (I. Lea, 1860)	Pleuroceridae	Striped rocksnail	AL.
2	U	R4	*Lepyrium showalteri* (I. Lea, 1861)	Hydrobiidae	Flat pebblesnail	AL.
2	U	R4	*Lioplax cyclostomaformis* (I. Lea, 1841)	Viviparidae	Cylindrical lioplax (snail)	AL, GA, LA.
2	U	R4	*Lithasia armigera* (Say, 1821)	Pleuroceridae	Armored rocksnail (=armigerous river snail).	AL, IN, KY, TN.
2	U	R4	*Lithasia armigera* (Say, 1821)	Pleuroceridae	Armored rocksnail	AL, IN, KY, TN.
2	U	R4	*Lithasia curta* (I. Lea, 1868)	Pleuroceridae	Knobby rocksnail	AL.
2	U	R4	*Lithasia duttoniana* (Lea, 1841)	Pleuroceridae	Helmet rocksnail (=Dutton's river snail)	TN.
2	U	R4	*Lithasia geniculata* (Haldeman, 1840)	Pleuroceridae	Ornate rocksnail (=geniculate river snail)	AL, KY, TN.
2	U	R4	*Lithasia jayana* (Lea, 1841)	Pleuroceridae	Rugnose rocksnail (=Jay's river snail)	TN.
2	U	R4	*Lithasia lima* (Conrad, 1834)	Pleuroceridae	Warty rocksnail (=Elk River file snail)	AL, TN.
2	U	R4	*Lithasia salebrosa* (Conrad, 1834)	Pleuroceridae	Muddy rocksnail (=rugged river snail)	AL, TN.
2	U	R4	*Lithasia verrucosa* (Rafinesque, 1820)	Pleuroceridae	Varicose rocksnail (=verrucose file snail)	AL, KY, OH, TN.
2	U	R4	*Mesodon clausus trossulus* Hubricht, 1966.	Polygyridae	(Snail, no common name)	AL.
2	U	R4	*Mesodon clenchi* (Rehder, 1932)	Polygyridae	Calico Rock oval (=Clench's middle-toothed land snail).	AR.
2	U	R4	*Mesodon clingmanicus* (Pilsbry, 1904)	Polygyridae	Clingman covert (snail)	NC, TN.
2	U	R4	*Mesodon orestes* Hubricht, 1975	Polygyridae	Engraved covert (snail)	NC.
2	U	R1	*Micrarionta facta* (Newcomb, 1864)	Helminthoglyptidae	Santa Barbara islandsnail (=concentrated snail).	CA.
2	U	R1	*Micrarionta feralis* (Hemphill, 1901)	Helminthoglyptidae	San Nicholas islandsnail (=fraternal snail).	CA.
2	U	R1	*Micrarionta gabbi* (Newcomb, 1864)	Helminthoglyptidae	San Clemente islandsnail (=Gabb's snail).	CA.
2	U	R1	*Micrarionta opuntia* Roth, 1975	Helminthoglyptidae	Prickly pear islandsnail (=prickly pear snail).	CA.
2	U	R1	*Micrarionta rowelli bakerensis* (Pilsbry & Lowe, 1934).	Helminthoglyptidae	(Snail, no common name)	CA.
2	U	R1	*Micrarionta rowelli mccoiana* (Willet, 1935).	Helminthoglyptidae	California McCoy snail	CA.
2	U	R1	*Monadenia circumcarinata* (Stearns, 1879).	Helminthoglyptidae	Keeled sideband (snail)	CA.
2	U	R1	*Monadenia fidelis minor* (W. G. Binney, 1885).	Helminthoglyptidae	Minor Pacific sideband (snail)	OR.
2	U	R1	*Monadenia fidelis pronotis* (Berry, 1931)	Helminthoglyptidae	Rocky coast Pacific sideband (snail)	CA.
2	U	R1	*Monadenia hillebrandi yosemitensis* (Lowe, 1916).	Helminthoglyptidae	Yosemite mariposa sideband (=Indian Yosemite snail).	CA.
2	U	R1	*Monadenia mormonum buttoni* (Pilsbry, 1900).	Helminthoglyptidae	Button's Sierra sideband (snail)	CA.
2	U	R1	*Monadenia mormonum hirsuta* (Pilsbry, 1927).	Helminthoglyptidae	Hirsute Sierra sideband (snail)	CA.
2	U	R1	*Monadenia setosa* (Talmadge, 1952)	Helminthoglyptidae	Trinity bristlesnail (=California northern river snail).	CA.
2	U	R1	*Monadenia troglodytes* (Hanna & Smith, 1933).	Helminthoglyptidae	Shasta sideband (snail)	CA.
2	U	R4	*Neoplanorbis carinatus* Walker, 1908	Planorbidae	(Snail, no common name)	AL.

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Category	Trend					
2	U	R4	*Neoplanorbis smithi* Walker, 1908	Planorbidae	(Snail, no common name)	AL.
2	U	R4	*Neoplanorbis tantillus* Pilsbry, 1906	Planorbidae	(Snail, no common name)	AL.
2	U	R4	*Neoplanorbis umbilicatus* Walker, 1908	Planorbidae	(Snail, no common name)	AL.
2	U	R1	*Neritilia hawaiiensis* (Kay, 1979)	Neritidae	(Snail, no common name)	HI.
2	U	R2	*Oreohelix florida* Pilsbry, 1939	Oreohelicidae	Florida mountainsnail	NM.
3C	S	R2	*Oreohelix grahamensis* Gregg & Miller, 1974.	Oreohelicidae	Pinaleno mountainsnail	AZ.
2	U	R1	*Oreohelix idahoensis idahoensis* Newcomb, 1866.	Oreohelicidae	Idaho banded mountainsnail	ID.
2	U	R1	*Oreohelix jugalis* (=*Oreohelox jugalis jugalis*) (Hemphill, 1890).	Oreohelicidae	Boulder pile mountainsnail	ID.
2	U	R1	*Oreohelix nevadensis* S. S. Berry, 1932	Oreohelicidae	Schell Creek (=Nevada) mountainsnail	NV.
2	U	R6	*Oreohelix peripherica weberiana* (Pilsbry, 1939).	Oreohelicidae	Coalville mountainsnail	UT.
2	U	R2	*Oreohelix pilsbryi* Ferriss, 1917	Oreohelicidae	Mineral Creek mountainsnail	NM.
2	U	R6	*Oreohelix strigosa cooperi*	Oreohelicidae	Cooper's rocky mountainsnail	SD
2	U	R1	*Oreohelix strigosa goniogyra* Pilsbry, 1933.	Oreohelicidae	Carinated rocky (=striate banded) mountainsnail.	ID.
2	U	R1	*Oreohelix vortex* (=*Oreohelix jugalis vortex*) (Berry, 1932).	Oreohelicidae	Whorled (=vortex banded) mountainsnail	ID.
2	U	R1	*Oreohelix waltoni* (Solem, 1975)	Oreohelicidae	Lava rock (=Walton's banded) mountainsnail.	ID.
PE	U	R6	*Oxyloma haydeni kanabensis* Pilsbry, 1948.	Succineidae	Kanab ambersnail	UT.
2	U	R4	*Paravitrea aulacogyra* (Pilsbry & Ferris, 1906).	Zonitidae	(Snail, no common name)	AR.
2	U	R5	*Paravitrea ceres* Hubricht, 1978	Zonitidae	Sidelong supercoil (snail)	WV.
2	U	R4	*Paravitrea ternaria* Hubricht, 1978	Zonitidae	Sculpted supercoil (snail)	NC, TN.
2	U	R4	*Paravitrea varidens* Hubricht, 1978	Zonitidae	Roan supercoil (snail)	NC, TN.
2	U	R1	*Perdicella* 7 spp.	Achatinellidae	Genus (no common names)	HI.
2	U	R2	*Phreatodrobia imitata* (Herschler & Longley, 1986).	Hydrobiidae	Mimic cavesnail	TX.
PE	S	R1	*Physa natricina* Taylor, 1988	Physidae	Snake River physa snail	ID.
2	U	R6	*Physella microstriata* (=*Stenophysa m.*) (Chamberlain & Berry, 1930).	Physidae	Fish Lake physa (=Fish Lake snail)	UT.
2	U	R6	*Physella spelunca* (=*Physa s.*) (Turner & Clench, 1925).	Physidae	Cave physa (=Wyoming cave snail)	WY.
2	U	R6	*Physella utahensis* (=*Physa u.*) (Clench, 1925).	Physidae	Utah physa (=Utah bubble snail)	UT.
2	U	R6	*Physella zionis* (=*Physa z.*) (Pilsbry, 1905).	Physidae	Wet-rock physa (=Zion Canyon snail)	UT.
2	S	R4	*Planorbella magnifica* (=*Helisoma m.*) (Pilsbry, 1903).	Planorbidae	Magnificent (=Cape Fear) rams-horn (snail).	NC.
2	U	R3	*Planorbella multivolvis* (Case, 1847)	Planorbidae	Acorn rams-horn (snail)	MI.
2	U	R4	*Pleurocera alveare* (Conrad, 1834)	Pleuroceridae	Rugged hornsnail	AL, AR, KY, MO, TN.
2	U	R4	*Pleurocera annulifera* (Conrad, 1834)	Pleuroceridae	Ringed hornsnail	AL.
2	U	R4	*Pleurocera brumbyi* (I. Lea, 1852)	Pleuroceridae	Spiral hornsnail	AL.
2	U	R4	*Pleurocera corpulenta* (Anthony, 1854)	Pleuroceridae	Corpulent hornsnail	AL, TN.
2	U	R4	*Pleurocera curta* (Haldeman, 1841)	Pleuroceridae	Shortspire hornsnail	AL, TN.
2	U	R4	*Pleurocera foremani* (I. Lea, 1843)	Pleuroceridae	Rough hornsnail	AL, GA.
2	U	R4	*Pleurocera postelli* (I. Lea, 1862)	Pleuroceridae	Broken hornsnail	AL.
2	U	R4	*Pleurocera pyrenella* (Conrad, 1834)	Pleuroceridae	Skirted hornsnail	AL, GA.
2	U	R4	*Pleurocera showalteri* (I. Lea, 1862)	Pleuroceridae	Upland hornsnail	AL, GA.
2	U	R4	*Pleurocera walkeri* Goodrich, 1928	Pleuroceridae	Telescope hornsnail	AL, TN.
2	U	R2	*Polygyra hippocrepis* (Pheiffer, 1848)	Polygyridae	Horseshoe liptooth (snail)	TX.
2	U	R4	*Polygyra peregrina* Rehder, 1932	Polygyridae	White liptooth (=strange many-whorled land snail).	AR.
2	U	R4	*Pyrgulopsis agarhecta* (=*Marstonia a.*) (Thompson, 1969).	Hydrobiidae	Ocmulgee marstonia (snail)	GA.
2	U	R2	*Pyrgulopsis bacchus* Hershler, 1988	Hydrobiidae	Grand Wash springsnail	AZ.
2	U	R4	*Pyrgulopsis castor* (=*Marstonia c.*) (Thompson, 1977).	Hydrobiidae	Beaver pond marstonia (snail)	GA.
2	U	R2	*Pyrgulopsis conicus* Hershler, 1988	Hydrobiidae	Kingman springsnail	AZ.
2	S	R1	*Pyrgulopsis cristalis* Hershler & Sada, 1987.	Hydrobiidae	Crystal Spring springsnail	NV.
2	S	R1	*Pyrgulopsis erythropoma* (=*Fluminicola e.*) (Pilsbry, 1899).	Hydrobiidae	Ash Meadows pebblesnail (=Point of Rocks Spring snail).	NV.
2	S	R1	*Pyrgulopsis fairbanksensis* Hershler & Sada, 1987.	Hydrobiidae	Fairbanks springsnail	NV.
2	U	R2	*Pyrgulopsis glandulosus* Hershler, 1988	Hydrobiidae	Verde Rim springsnail	AZ.
2	S	R1	*Pyrgulopsis isolatus* Hershler & Sada, 1987.	Hydrobiidae	Elongate-gland springsnail	NV.
2	U	R1	*Pyrgulopsis micrococcus* (=*Fontelicella m.*) (Pilsbry, 1893).	Hydrobiidae	Oasis Valley springsnail	NV.
2	U	R2	*Pyrgulopsis montezumensis* Hershler, 1988.	Hydrobiidae	Montezuma Well springsnail	AZ.
2	U	R2	*Pyrgulopsis morrisoni* Hershler, 1988	Hydrobiidae	Page springsnail	AZ.
2	S	R1	*Pyrgulopsis nanus* Hershler & Sada, 1987	Hydrobiidae	Distal-gland springsnail (=Large-gland Nevada spring snail).	NV.

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Category	Trend					
PE	S	R2	*Pyrgulopsis neomexicana* (Pilsbry, 1916)	Hydrobiidae	Socorro springsnail	NM.
2	S	R4	*Pyrgulopsis ogmoraphe* (=*Marstonia o.*) (Thompson, 1977).	Hydrobiidae	Royal (=obese) marstonia (snail)	TN.
2	U	R4	*Pyrgulopsis olivacea* (=*Marstonia o.*) (Pilsbry, 1895).	Hydrobiidae	Olive marstonia (snail)	AL.
2	U	R4	*Pyrgulopsis ozarkensis* Hinkley, 1915	Hydrobiidae	Ozark pyrg (snail)	AR.
2	U	R4	*Pyrgulopsis pachyta* (=*Marstonia p.*) (F. G. Thompson, 1977).	Hydrobiidae	Armored (=thick-shelled) marstonia (snail).	AL.
2	S	R1	*Pyrgulopsis pisteri* Hershler & Sada, 1987	Hydrobiidae	Median-gland Nevada springsnail	NV.
2	D	R6	*Pyrgulopsis robusta* (=*Fontelicella r.*) (Walker, 1908).	Hydrobiidae	Jackson Lake springsnail (=Elk Island snail).	WY.
2	U	R2	*Pyrgulopsis simplex* Hershler, 1988	Hydrobiidae	Fossil springsnail	AZ.
2	U	R2	*Pyrgulopsis solus* Hershler, 1988	Hydrobiidae	Brown springsnail	AZ.
2	U	R2	*Pyrgulopsis thompsoni* Hershler, 1988	Hydrobiidae	Huachuca springsnail	AZ, Mexico.
2	U	R1	*Radiocentrum avalonensis* (=*Oreohelix a.*) (Hemphill in Pilsbry, 1905.	Oreohelicidae	Catalina mountainsnail	CA.
2	U	R4	*Rhodacmea elatior* (Anthony, 1855)	Ancylidae	Domed ancylid (snail)	AL.
2	U	R4	*Rhodacmea filosa* (Conrad, 1834)	Ancylidae	Wicker ancylid (snail)	AL.
2	U	R4	*Somatogyrus amnicoloides* Walker, 1915	Hydrobiidae	Oachita pebblesnail	AR.
2	U	R4	*Somatogyrus aureus* Tryon, 1865	Hydrobiidae	Golden pebblesnail	AL.
2	U	R4	*Somatogyrus biangulatus* Walker, 1906	Hydrobiidae	Angular pebblesnail	AL.
2	U	R4	*Somatogyrus constrictus* Walker, 1904	Hydrobiidae	Knotty pebblesnail	AL.
2	U	R4	*Somatogyrus coosaensis* Walker, 1904	Hydrobiidae	Coosa pebblesnail	AL.
2	U	R4	*Somatogyrus crassilabris*	Hydrobiidae	Thick-lipped pebblesnail	AR.
2	U	R4	*Somatogyrus crassus* Walker, 1904	Hydrobiidae	Stocky pebblesnail	AL.
2	U	R4	*Somatogyrus currierianus* (I. Lea, 1863)	Hydrobiidae	Tennessee pebblesnail	AL.
2	U	R4	*Somatogyrus deciphens* Walker, 1909	Hydrobiidae	Hidden pebblesnail	AL.
2	U	R4	*Somatogyrus excavatus* Walker, 1906	Hydrobiidae	Ovate pebblesnail	AL.
2	U	R4	*Somatogyrus hendersoni* Walker, 1909	Hydrobiidae	Fluted pebblesnail	AL.
2	U	R4	*Somatogyrus hinkleyi* Walker, 1904	Hydrobiidae	Granite pebblesnail	AL.
2	U	R4	*Somatogyrus humerosus* Walker, 1906	Hydrobiidae	Atlas pebblesnail	AL.
2	U	R4	*Somatogyrus nanus* Walker, 1904	Hydrobiidae	Dwarf pebblesnail	AL.
2	U	R4	*Somatogyrus obtusus* Walker, 1904	Hydrobiidae	Moon pebblesnail	AL.
2	U	R4	*Somatogyrus parvulus* (Tryon, 1865)	Hydrobiidae	Sparrow pebblesnail	TN.
2	U	R4	*Somatogyrus pilsbryanus* Walker, 1904	Hydrobiidae	Tallapoosa pebblesnail	AL.
2	U	R4	*Somatogyrus pygmaeus* Walker, 1909	Hydrobiidae	Pygmy pebblesnail	AL.
2	U	R4	*Somatogyrus quadratus* Walker, 1906	Hydrobiidae	Quadrate pebblesnail	AL.
2	U	R4	*Somatogyrus sargenti* Pilsbryi, 1895	Hydrobiidae	Mud pebblesnail	AL.
2	U	R4	*Somatogyrus strengi* Pilsbry & Walker, 1906.	Hydrobiidae	Rolling pebblesnail	AL.
2	U	R4	*Somatogyrus tenax* (Thompson, 1969)	Hydrobiidae	Savannah pebblesnail	GA.
2	U	R4	*Somatogyrus tennesseensis* Walker, 1906.	Hydrobiidae	Opaque pebblesnail	AL, TN.
2	U	R4	*Somatogyrus wheeleri* Walker, 1915	Hydrobiidae	Channeled pebblesnail	AR.
2	U	R1	*Somoana abbreviata* (Mousson, 1869)	Partulidae	Short Samoan tree snail	American Samoa.
2	U	R2	*Sonorella* sp.	Helminthoglyptidae	Ladybug Saddle talussnail	AZ.
2	U	R2	*Sonorella allynsmithi* Gregg & Miller, 1969.	Helminthoglyptidae	Squaw Park talussnail	AZ.
2	S	R2	*Sonorella christenseni* Fairbanks & Reeder, 1980.	Helminthoglyptidae	Clark Peak talussnail	AZ.
1	S	R2	*Sonorella eremita* (Pilsbry & Ferris, 1915)	Helminthoglyptidae	San Xavier talussnail	AZ.
2	D	R2	*Sonorella grahamensis* Pilsbry & Ferris, 1919.	Helminthoglyptidae	Pinaleno talussnail	AZ.
3C		R2	*Sonorella imitator* Gregg & Miller, 1974	Helminthoglyptidae	Mimic talussnail	AZ.
1	S	R2	*Sonorella macrophallus* Fairbanks & Reeder, 1980.	Helminthoglyptidae	Wet Canyon talussnail	AZ.
2	U	R2	*Sonorella metcalfi* (Miller, 1976)	Helminthoglyptidae	Franklin Mountain talussnail	TX.
2	U	R2	*Sonorella todseni* W. B. Miller, 1976	Helminthoglyptidae	Doña Ana talussnail	NM.
2	U	R6	*Stagnicola utahensis* (=*Lymnaea kingii*) (Call, 1844.	Lymnaeidae	Thickshell pondsnail (=Utah band snail)	UT.
2	U	R4	*Stenotrema pilsbryi* (Ferris, 1900)	Polygyridae	Rich Mt. slitmouth (=Pilsbry's narrow-apertured land snail).	AR, OK.
2	U	R1	*Sterkia clementina* (Sterki, 1890)	Pupillidae	San Clemente Island blunt-top snail (=Insular birddrop).	CA.
2	S	R4	*Stiobia nana* (Thompson, 1978)	Hydrobiidae	Sculpin snail	AL.
2	U	R3	*Succinea* sp.	Succineidae	Minnesota Pleistocene succineid (snail)	MN, IA.
2	U	R3	*Succinea* sp.	Succineidae	Iowa Pleistocene succineid (snail)	IA, MN.
3A		R4	*Taphius eucosmius eucosmius* (Bartsch, 1908).	Planorbidae	Greenfield rams-horn (snail)	NC.
2	U	R4	*Tridopsis occidentalis* (Pilsbry & Ferris, 1907).	Polygyridae	Arkansas wedge (=western three-toothed land snail).	AR.
2	U	R4	*Triodopsis solneri* (J. B. Henderson, 1907).	Polygyridae	Cape Fear threetooth (snail)	NC.
1	S	R2	*Tryonia adamantina* Taylor, 1987	Hydrobiidae	Diamond Y Spring snail	TX.
PE	S	R2	*Tryonia alamosae* Taylor, 1987	Hydrobiidae	Alamosa springsnail	NM.
2	S	R1	*Tryonia angulata* Hershler & Sada, 1987	Hydrobiidae	Sportinggoods tryonia (snail)	NV.
2	U	R2	*Tryonia brunei* Taylor, 1987	Hydrobiidae	Brune's tryonia (snail)	TX.
2	U	R2	*Tryonia cheatumi* (Pilsbry, 1935)	Hydrobiidae	Phantom tryonia (=Cheatum's snail)	TX.
2	U	R1	*Tryonia clathrata* Stimpson, 1865	Hydrobiidae	Grated tryonia (=White River snail)	NV.

Status		Lead Region	Scientific name	Family	Common name	Historic range
Category	Trend					
2	S	R1	*Tryonia elata* Hershler & Sada, 1987	Hydrobiidae	Point of Rocks tryonia (snail)	NV.
2	S	R1	*Tryonia ericae* Hershler & Sada, 1987	Hydrobiidae	Minute tryonia (=minute slender tryonia snail).	NV.
2	U	R2	*Tryonia gilae* Taylor, 1987	Hydrobiidae	Gila tryonia (snail)	AZ.
2	U	R1	*Tryonia imitator* (Pilsbry, 1899)	Hydrobiidae	Mimic tryonia (=California brackish water snail).	CA.
1	S	R2	*Tryonia kosteri* Taylor, 1987	Hydrobiidae	Koster's tryonia (springsnail)	NM.
2	U	R2	*Tryonia quitobaquitae* Hershler, 1988	Hydrobiidae	Quitobaquito tryonia (snail)	AZ.
1	S	R2	*Tryonia stocktonensis* Taylor, 1987	Hydrobiidae	Gonzales Spring tryonia (snail)	TX.
2	S	R1	*Tryonia variegata* Hershler & Sada, 1987	Hydrobiidae	Amargosa tryonia (=Amargosa & small solid tryonia snail).	NV.
PE	S	R1	*Valvata utahensis* Call, 1884	Valvatidae	Utah valvata snail	ID, UT.
2	U	R3	*Vertigo* sp.	Pupillidae	Iowa Pleistocene vertigo (snail)	IA.
2	U	R4	*Vertigo alabamensis* Clapp, 1915	Pupillidae	Alabama vertigo (snail)	AL.
2	U	R3	*Vertigo briarensis* (Leonard, 1972)	Pupillidae	Briarton Pleistocene snail	MN, IA, WI.
2	U	R4	*Vertigo hebardi* Vannatta, 1912	Pupillidae	Keys vertigo (snail)	FL.
2	U	R3	*Vertigo hubrichti* (Pilsbry, 1934)	Pupillidae	Hubricht's vertigo (snail)	MN, IA, W.
2	U	R3	*Vertigo meramacensis* (Van DaVender, 1977).	Pupillidae	Meramac River vertigo (snail)	IA, MO.
2	U	R3	*Vertigo occulta* (Leonard, 1972)	Pupillidae	Occult vertigo (snail)	IA, MN.
2	U	R2	*Vertigo ovata* Say, 1822	Pupillidae	Ovate vertigo (snail)	NM.
2	U	R1	*Vespericola karokorum* Talmage, 1962	Polygyridae	Karok hesperian (=Karok Indian snail)	CA.
2	U	R2	*Yaquicoccus bernardinus* Taylor, 1987	Hydrobiidae	San Bernadino springsnail	AZ.
			MILLIPEDES (CLASS DIPLOPODA)			
2	U	R2	*Toltecus chihuanus*	Atopetholidae	(Millipede, no common name)	NM, Mexico.
			INSECTS (CLASS INSECTA)			
			ROCKHOPPERS & BRISTLETAILS (INSECTS, ORDER ARCHEOGNATHA).			
2	U	R1	*Machiloides heteropus*	Machilidae	Hawaiian long-palp bristletail	HI.
2	U	R1	*Machiloides perkinsi*	Machilidae	Perkin's club-palp bristletail	HI.
			SPRINGTAILS (INSECTS, ORDER COLLEMBOLA).			
2	U	R5	*Pseudosinella certa*	Entomobryidae	Gandy Creek cave springtail	WV.
2	U	R5	*Pseudosinella testa*	Entomobryidae	Shelled cave springtail	WV.
			MAYFLIES (INSECTS, ORDER EPHEMEROPTERA).			
2	U	R3	*Acanthometropus pecatonica*	Siphlonuridae	Pecatonica River mayfly	WI, IL*.
2	U	R2	*Ameletus falsus*	Siphlonuridae	False ameletus mayfly	AZ.
2*	U	R4	*Brachycercus flavus*	Caenidae	Yellow brachycercus mayfly	LA*.
2	U	R4	*Dolania americana*	Behningiidae	American sandburrowing mayfly	AL, FL, GA SC, NC.
3A		R6	*Ephemera compar*	Ephemeridae	Colorado burrowing mayfly	CO*.
2*	U	R5	*Ephemera triplex*	Ephemeridae	West Virginia burrowing mayfly	WV*.
2	U	R3	*Ephemerella argo*	Ephemerellidae	Argo ephemerellan mayfly	GA, IL, IN, SC.
2	U	R4	*Heterocleon berneri*	Baetidae	Berner's two-winged mayfly	GA.
2	U	R4	*Homoeoneuria cahabensis*	Oligoneuridae	Cahaba sandfiltering mayfly	AL, MS.
2	U	R4	*Homoeoneuria dolani*	Oligoneuridae	Blackwater sandfiltering mayfly	FL, GA, SC.
2	U	R4	*Paraleptophlebia calcarica*	Leptophlebiidae	(Mayfly, no common name)	AR.
2*	U	R3	*Seratella frisoni*	Ephemerellidae	Frison's seratellan mayfly	AL*, IL*, MO*.
2*	U	R4	*Seratella spiculosa*	Ephemerellidae	Spiculose seratellan mayfly	TN*, NC*.
2	S	R5	*Siphlonisca aerodromia*	Siphlonuridae	Tomah mayfly	ME, NY*, Canada.
2	U	R3	*Spinadis wallacei*	Heptageniidae	Wallace's deepwater mayfly	GA, IN, MS, WI.
			DRAGONFLIES & DAMSELFLIES (INSECTS, ORDER ODONATA).			
2	U	R2	*Argia* sp.	Coenagrionidae	Balmorhea damselfly	TX.
2	U	R2	*Argia* sp.	Coenagrionidae	Sabino Canyon damselfly	AZ.
2	U	R4	*Cordulegaster sayi*	Cordulegastridae	Say's spiketail (dragonfly)	F_, GA.
2	U	R4	*Gomphus consanguis* (*Gomphurus*)	Gomphidae	Cherokee clubtail (dragonfly)	SC, AL, NC, TN, VA.
2	U	R1	*Gomphus lynnae*	Gomphidae	Lynn's clubtail (dragonfly)	WA.
2	U	R3	*Gomphus notatus* (*Stylurus*)	Gomphidae	Elusive clubtail (dragonfly)	MD, WI, Canada, IA*, IL*, IN*, KY*, MI*, MN*, NY*, OH*, PA*, TN*, WV*, AL?*, GA?*
2	U	R4	*Gomphus parvidens carolinus* (*Hylogomphus*).	Gomphidae	Sandhills clubtail (dragonfly)	NC, SC.
2	U	R4	*Gomphus sandrius* (*Gomphurus*)	Gomphidae	Tennessee clubtail (dragonfly)	TN.
2	U	R4	*Gomphus septima* (*Gomphurus*)	Gomphidae	Septima's clubtail (dragonfly)	AL, NC.
2	U	R4	*Gomphus townesi* (*Stylurus*)	Gomphidae	Bronze clubtail (dragonfly)	FL, AL, SC, NC, TN.
2	U	R4	*Gomphus westfalli* (*Stylurus*)	Gomphidae	Westfall's clubtail (dragonfly)	FL.
2	U	R1	*Ischnura gemina*	Coenagrionidae	San Francisco forktail damselfly	CA.
2	U	R5	*Macromia margarita*	Macromiidae	Margarita River skimmer (dragonfly)	VA, NC, GA, SC.
2*	U	R3	*Macromia wabashensis*	Macromiidae	Wabash belted skimmer (dragonfly)	OH*, IN*, TX*.
2	U	R1	*Megalagrion adytum*	Coenagrionidae	Adytum megalagrion damselfly	HI.

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Category	Trend					
2*	U	R1	*Megalagrion amaurodytum fallax*	Coenagrionidae	Fallax megalagrion damselfly	HI*.
2*	U	R1	*Megalagrion amaurodytum peles*	Coenagrionidae	Pele megalagrion damselfly	HI*
2*	U	R1	*Megalagrion amaurodytum waianaenum*	Coenagrionidae	Waianae megalagrion damselfly	HI*
2	U	R1	*Megalagrion leptodemus*	Coenagrionidae	Leptodemas megalagrion damselfly	HI.
2	U	R1	*Megalagrion molokaiense*	Coenagrionidae	Molokai megalagrion damselfly	HI.
2	U	R1	*Megalagrion nigrohamatum*	Coenagrionidae	Nigrohamatum megalagrion damselfly	HI.
2	U	R1	*Megalagrion nigrolineatum*	Coenagrionidae	Blackline megalagrion damselfly	HI.
2	U	R1	*Megalagrion oahuensis*	Coenagrionidae	Oahu megalagrion damselfly	HI.
2	U	R1	*Megalagrion oceanicum*	Coenagrionidae	Oceanic megalagrion damselfly	HI.
2	U	R1	*Megalagrion pacificum*	Coenagrionidae	Pacific megalagrion damselfly	HI.
2	U	R1	*Megalagrion xanthomelas*	Coenagrionidae	Orangeblack megalagrion damselfly	HI.
2	U	R4	*Neurocordulia clara*	Corduliidae	Apalachicola twilight skimmer (dragonfly)	AL, FL.
2	U	R3	*Ophiogomphus* sp.	Gomphidae	St. Croix snaketail (dragonfly)	MN, WI.
2	U	R3	*Ophiogomphus anomalus*	Gomphidae	Extra-striped snaketail (dragonfly)	ME, WI, Canada, NJ*, NY?* PA*
2*	U	R4	*Ophiogomphus edmundo*	Gomphidae	Edmund's snaketail (dragonfly)	NC*.
2	U	R4	*Ophiogomphus howei*	Gomphidae	Midget snaketail (dragonfly)	KY, NC, PA, TN, VA, WI, MA*, NY*.
2	U	R4	*Ophiogomphus incurvatus alleghaniensis*	Gomphidae	Alleghany snaketail (dragonfly)	WV, VA, AL, TN?.
2	U	R4	*Ophiogomphus westfalli*	Gomphiidae	Ozark snaketail (dragonfly)	AR, KS, MO.
2	U	R4	*Progomphus bellei*	Gomphidae	Variegated clubtail (dragonfly)	FL, NC.
1	S	R3	*Somatochlora hineana*	Corduliidae	Ohio emerald dragonfly	IL, WI, OH*, IN*.
2	U	R2	*Somatochlora margarita*	Corduliidae	Big Thicket emerald dragonfly	TX.
2	S	R5	*Williamsonia lintneri*	Corduliidae	Banded bog skimmer (dragonfly)	CT, NY, NJ, MA, RI, NH.
			STONEFLIES (INSECTS, ORDER PLECOPTERA).			
2	D	R4	*Alloperla natchez*	Chloroperlidae	Natchez stonefly	MS.
2	U	R4	*Beloneuria jamesae*	Perlidae	Cheaha beloneurian stonefly	AL.
2	U	R1	*Capnia lacustra*	Capniidae	Lake Tahoe benthic stonefly	CA, NV.
2	D	R4	*Haploperla chukcho*	Chloroperlidae	Chukcho stonefly	MS.
2	U	R6	*Lednia tumana*	Nemouridae	Meltwater lednian stonefly	MT.
2	U	R1	*Megaleuctra sierra*	Leuctridae	Shirttail Creek stonefly	CA.
2	U	R1	*Zapada (=Nemoura) wahkeena*	Nemouridae	Wahkeena Falls flightless stonefly	OR.
2	U	R1	*Soliperla fenderi*	Peltoperlidae	Fender's soliperlan stonefly	WA.
2	U	R2	*Taeniopteryx starki*	Taeniopterygidae	Leon River winter stonefly	TX.
			COCKROACHES (INSECTS, ORDER BLATTODEA).			
2	U	R4	*Aspiduchus cavernicola*	Blaberidae	Tuna Cave roach	PR.
			GRASSHOPPERS & ALLIES (INSECTS, ORDER ORTHOPTERA).			
2	U	R1	*Acrolophitus pulchellus*	Acrididae	Idaho pointheaded grasshopper	ID.
2	U	R1	*Ammopelmatus kelsoensis*	Stenopelmatidae	Kelso Jerusalem cricket	CA.
2	U	R1	*Ammopelmatus muwu*	Stenopelmatidae	Point Conception Jerusalem cricket	CA.
2	U	R3	*Appalachia arcana*	Acrididae	Michigan bog grasshopper	MI*.
2	U	R1	*Banza nihoae*	Tettigoniidae	Nihoa banza conehead katydid	HI.
2	U	R4	*Belocephalus micanopy*	Tettigoniidae	Big Pine Key conehead katydid	FL.
2	U	R4	*Belocephalus sleighti*	Tettigoniidae	Keys shortwinged conehead katydid	FL.
2	U	R1	*Caconemobius howarthi*	Gryllidae	Howarth's cave cricket	HI.
2	U	R1	*Caconemobius schauinslandi*	Gryllidae	Schauinsland's bush cricket	HI.
2	U	R1	*Caconemobius varius*	Gryllidae	Kaumana Cave cricket	HI.
2	U	R1	*Chloealtis aspasma*	Acrididae	Siskiyou chloealtis grasshopper	OR.
2	U	R4	*Cycloptilum irregularis*	Gryllidae	Keys scaly cricket	FL.
2	U	R2	*Daihinibaenetes arizonensis*	Rhaphidophoridae	Arizona giant sand treader cricket	AZ.
2	U	R2	*Eumorsea pinaleno*	Eumastacidae	Pinaleno monkey grasshopper	AZ.
2	U	R2	*Eximacris phenax*	Acrididae	Big Cedar grasshopper	OK*.
2*	U	R2	*Eximacris superbum (=Spharagemon s.)*	Acrididae	Superb grasshopper	TX*.
PT	S	R3	*Gryllotalpa major*	Gryllidae	Prairie mole cricket	AR, MO, KS, OK, IL*, MS*.
2	U	R1	*Idiostatus kathleenae*	Tettigoniidae	Pinnacles shield-back katydid	CA.
2	U	R1	*Idiostatus middlekaufi*	Tettigoniidae	Middlekauf's shieldback katydid	CA.
2	U	R1	*Leptogryllus deceptor*	Gryllidae	Oahu deceptor bush cricket	HI.
2	U	R1	*Macrobaenetes kelsoensis*	Rhaphidophoridae	Kelso giant sand treader cricket	CA.
2	U	R1	*Macrobaenetes valgum*	Rhaphidophoridae	Coachella giant sand treader cricket	CA.
2	U	R1	*Neduba longipennis*	Tettigoniidae	Santa Monica shieldback katydid	CA.
2	U	R3	*Oecanthus laricis*	Gryllidae	Laricis tree cricket	MI, OH*.
2	U	R1	*Pristoceuthophilus* sp.	Rhaphidophoridae	Samwell Cave cricket	CA.
2	U	R1	*Psychomastix deserticola*	Eumastacidae	Desert monkey grasshopper	CA, NV.
2	U	R1	*Stenopelmatus cahuilaensis*	Stenopelmatidae	Coachella Valley Jerusalem cricket	CA.
2	U	R2	*Stenopelmatus navajo*	Stenopelmatidae	Navajo Jerusalem cricket	AZ.
2	U	R1	*Tetrix sierrana*	Tetrigidae	Sierra pygmy grasshopper	CA.
2	U	R4	*Tettigidea empedonepia*	Tetrigidae	Torreya pygmy grasshopper	FL.
2	U	R1	*Thaumatogryllus cavicola*	Gryllidae	Volcanoes cave cricket	HI.
2	U	R1	*Thaumatogryllus variegatus*	Gryllidae	Kauai thinfooted bush cricket	HI.
2	U	R3	*Trimerotropis huroniana*	Acrididae	Lake Huron locust	MI, WI, Canada.

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Category	Trend					
2	U	R6	*Utabaenetes tanneri*	Rhaphidophoridae	Tanner's black camel cricket	UT.
			ZOROAPTERANS (INSECTS, ORDER ZOROAPTERA).			
2	U	R1	*Zorotypus swezeyi*	Zorotypidae	Swezey's zoroapteran	HI.
			TRUE BUGS (INSECTS, ORDER HEMIPTERA).			
2	U	R4	*Acalyptera susanae*	Tingidae	(Lace bug, no common name)	AR.
2	U	R1	*Belostoma saratogae*	Belostomatidae	Saratoga Springs belostoman bug	CA.
2	U	R1	*Cavaticovelia aaa*	Mesoveliidae	Aaa water treader bug	HI.
2	D	R3	*Chlorochroa belfragi*	Pentatomidae	Belfragi's chlorochroan bug	IA, IL, NE, SD
2	U	R5	*Chlorochroa dismalia*	Pentatomidae	Dismal Swamp chlorochroan bug	VA.
2	U	R2	*Chlorochroa rita*	Pentatomidae	Santa Rita Mountains chlorochroan bug	AZ.
2*	U	R1	*Empicoris pulchrus*	Reduviidae	Pulchrus thread bug	HI*.
2	U	R1	*Ithamar annectans*	Rhopalidae	Annectans rhopalid bug	HI.
2	U	R1	*Ithamar hawaiiense*	Rhopalidae	Hawaiian rhopalid bug	HI.
2	U	R1	*Kalania* sp.	Miridae	Oahu kalanian leaf bug	HI.
2	U	R1	*Kalania hawaiiensis*	Miridae	Lanai kalanian leaf bug	HI.
2	U	R1	*Metrarga obscura*	Lygaeidae	Mauna Loa metrargan seed bug	HI.
2	U	R1	*Neseis alternatus*	Lygaeidae	Kauai band-legged seed bug	HI.
2	U	R1	*Neseis haleakalae*	Lygaeidae	Mt. Haleakala seed bug	HI.
2	U	R1	*Nesidiolestes ana*	Reduviidae	Ana wingless thread bug	HI.
2	U	R1	*Nesidiolestes insularis*	Reduviidae	Mt. Tantalus wingless thread bug	HI.
2	U	R1	*Nesidiolestes roberti*	Reduviidae	Robert's wingless thread bug	HI.
2	U	R1	*Nesidiolestes selium*	Reduviidae	Selium wingless thread bug	HI.
2	U	R1	*Nesocryptias villosa*	Lygaeidae	Villosan flightless seed bug	HI.
2	U	R1	*Nysius frigatensis*	Lygaeidae	French Frigate Shoal seed bug	HI.
2	U	R1	*Nysius fullawayi*	Lygaeidae	Fullaway's seed bug	HI.
2	U	R1	*Nysius neckerensis*	Lygaeidae	Necker goosefoot seed bug	HI.
2	U	R1	*Nysius nihoae*	Lygaeidae	Nihoa nysius seed bug	HI.
2	U	R1	*Nysius suffusus*	Lygaeidae	Necker bunchgrass seed bug	HI.
2	U	R1	*Oceanides bryani*	Lygaeidae	Bryan's oceanides seed bug	HI.
2	U	R1	*Oceanides perkinsi*	Lygaeidae	Perkins' oceanides seed bug	HI.
2	U	R1	*Oceanides rugosiceps*	Lygaeidae	Rough-headed oceanides seed bug	HI.
2	U	R1	*Oravelia pege*	Macroveliidae	Dry Creek cliff strider bug	CA.
2	S	R1	*Pelocoris shoshone*	Naucoridae	Amargosa naucorid (bug)	CA, NV.
2	U	R1	*Siacella smithi*	Reduviidae	Smith's siacellan reduviid (bug)	HI.
			CICADAS AND ALLIES (INSECTS, ORDER HOMOPTERA).			
2	U	R3	*Aflexia rubranura* (=*Flexamia r.*)	Cicadellidae	Redveined prairie leafhopper	WI, Canada, IL*.
2	S	R5	*Limotettix* sp.	Cicadellidae	Barrens sedge leafhopper	MD.
2	U	R1	*Nesorestias filicicola*	Delphacidae	Mt. Tantalus short-wing fern planthopper	HI.
2	U	R1	*Nesosydne acuta*	Delphacidae	Iao Valley nesosydne planthopper	HI.
2	U	R1	*Nesosydne bridwelli*	Delphacidae	Bridewell's nesosydne planthopper	HI.
2	U	R1	*Nesosydne cyrtandrae*	Delphacidae	Nahiku nesosydne planthopper	HI.
2	U	R1	*Nesosydne cyrtandricola*	Delphacidae	Glenwood nesosydne planthopper	HI.
2	U	R1	*Nesosydne kuschei*	Delphacidae	Kusche's nesosydne planthopper	HI.
2	U	R1	*Nesosydne leahi*	Delphacidae	Diamond Head nesosydne planthopper	HI.
2	U	R1	*Nesosydne longipes*	Delphacidae	Long-footed nesosydne planthopper	HI.
2	U	R1	*Nesosydne sulcata*	Delphacidae	Keanae nesosydne planthopper	HI.
2	U	R1	*Oliarus consimilis*	Cixiidae	Kauai parti-colored oliarus planthopper	HI.
2	U	R1	*Oliarus discrepans*	Cixiidae	Oliarus wild cotton planthopper	HI.
2	U	R1	*Oliarus lanaiensis*	Cixiidae	Lanai oliarus planthopper	HI.
2	U	R1	*Oliarus lihue*	Cixiidae	Lihue oliarus planthopper	HI.
2	U	R1	*Oliarus myoporicola*	Cixiidae	Barber's Point oliarus planthopper	HI.
2	U	R1	*Oliarus priola*	Cixiidae	Priolan oliarus planthopper	HI.
			LACEWINGS & ALLIES (INSECTS, ORDER NEUROPTERA).			
2	U	R1	*Eidoleon perjurus*	Myrmeleontidae	Molokai antlion	HI.
2	U	R1	*Nesothauma haleakalae*	Hemerobiidae	Haleakala nesothauman brown lacewing	HI.
2	U	R1	*Nothochrysa californica*	Chrysopidae	San Francisco lacewing	CA.
2	U	R1	*Oliarces clara*	Ithonidae	Cheese-weed moth lacewing	AZ, CA.
2	U	R1	*Pseudopsectra cookeorum*	Hemerobiidae	Cookes' brown lacewing	HI.
2	U	R1	*Pseudopsectra lobipennis*	Hemerobiidae	Lobe-wing brown lacewing	HI.
2	U	R1	*Pseudopsectra swezeyi*	Hemerobiidae	Swezey's brown lacewing	HI.
2	U	R1	*Pseudopsectra usingeri*	Hemerobiidae	Usinger's brown lacewing	HI.
			BEETLES (INSECTS, ORDER COLEOPTERA).			
2	U	R1	*Acneus beeri*	Eubriidae	Beer's false water penny (beetle)	OR.
2	U	R1	*Acneus burnelli*	Eubriidae	Burnell's false water penny (beetle)	OR.
1	D	R1	*Aegialia concinna*	Scarabaeidae	Ciervo aegialian scarab (beetle)	CA.
2	U	R1	*Aegialia crescenta*	Scarabaeidae	Crescent Dune aegialian scarab (beetle)	NV.
2	U	R1	*Aegialia hardyi*	Scarabaeidae	Hardy's aegialian scarab (beetle)	NV.
2	U	R1	*Aegialia magnifica*	Scarabaeidae	Large aegialian scarab (beetle)	NV.

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Category	Trend					
2	U	R1	*Agabus rumppi*	Dytiscidae	Death Valley agabus diving beetle	CA, NV?.
2	U	R1	*Agonum belleri*	Carabidae	Beller's ground beetle	WA, OR.
2	U	R4	*Alabameubria starki*	Eubriidae	Stark's false water penny (beetle)	AL.
2*	U	R4	*Anomala exigua*	Scarabaeidae	Exiguous anomalan scarab (beetle)	FL*.
2	U	R4	*Anomala eximia*	Scarabaeidae	Archbold anomalan scarab (beetle)	FL*.
2*	U	R2	*Anomala tibialis*	Scarabaeidae	Tibial scarab (beetle)	TX*.
2	U	R1	*Anthicus antiochensis*	Anthicidae	Antioch Dunes anthicid (beetle)	CA.
2	U	R1	*Anthicus sacramento*	Anthicidae	Sacramento anthicid (beetle)	CA.
2	U	R1	*Aphodius* sp.	Scarabaeidae	Crescent Dune aphodius scarab (beetle)	NV.
2	U	R1	*Aphodius* sp.	Scarabaeidae	Big Dune aphodius scarab (beetle)	NV.
2	U	R1	*Aphodius* sp.	Scarabaeidae	Sand Mountain aphodius scarab (beetle)	NV.
2	U	R4	*Aphodius fordi*	Scarabaeidae	Ford's aphodius scarab (beetle)	GA.
2	U	R4	*Aphodius troglodytes*	Scarabaeidae	Aphodius tortoise commensal scarab (beetle).	FL, SC.
2	U	R1	*Apterocychus honoluluensis*	Lucanidae	Kauai flightless stag beetle	HI.
2	U	R4	*Arianops sandersoni*	Pselaphidae	Magazine Mountain mold beetle	AR.
2	U	R4	*Ataenius superficialis*	Scarabaeidae	Big Pine Key ataenius dung beetle	FL.
2	U	R4	*Ataenius woodruffi*	Scarabaeidae	Woodruff's ataenius dung beetle	FL.
2	U	R1	*Atractelmis wawona*	Elmidae	Wawona riffle beetle	CA.
2	D	R3	*Brychius hungerfordi*	Haliplidae	Hungerford's crawling water beetle	MI.
2	U	R1	*Chaetarthria leechi*	Hydrophilidae	Leech's chaetarthrian water scavenger beetle.	CA.
2	U	R6	*Chaetarthria utahensis*	Hydrophilidae	Utah chaetarthrian water scavenger beetle.	UT.
2	I	R1	*Cicindela arenicola*	Cicindelidae	Idaho dunes tiger beetle	ID.
2*	U	R2	*Cicindela cazieri*	Cicindelidae	Cazier's tiger beetle	TX*.
2*	U	R2	*Cicindela chlorocephala smythi*	Cicindelidae	Smyth's tiger beetle	TX*.
2	U	R1	*Cicindela hirticollis abrupta*	Cicindelidae	Sacramento Valley tiger beetle	CA.
2	D	R4	*Cicindela highlandensis*	Cicindelidae	Scrub tiger beetle	FL.
2*	U	R1	*Cicindela latesignata obliviosa*	Cicindelidae	Oblivious tiger beetle	CA*.
2	U	R6	*Cicindela limbata albissima*	Cicindelidae	Coral Pink Dunes tiger beetle	UT.
2	S	R5	*Cicindela marginipennis*	Cicindelidae	Cobblestone tiger beetle	AL, IN, MS, NH, NJ, OH, PA, VT, NY*, WV*.
2	U	R2	*Cicindela nevadica olmosa*	Cicindelidae	Los Olmos tiger beetle	TX, NM, Mexico?.
2	U	R2	*Cicindela nigrocoerula subtropica*	Cicindelidae	Subtropical blue-black tiger beetle	TX.
2*	U	R2	*Cicindela obsoleta neojuvenalis*	Cicindelidae	Neojuvenile tiger beetle	TX*.
2	U	R2	*Cicindela oregona maricopa*	Cicindelidae	Maricopa tiger beetle	AZ.
2	U	R2	*Cicindela politula barbarannae*	Cicindelidae	Barbara Ann's tiger beetle	TX.
2	U	R2	*Cicindela politula petrophila*	Cicindelidae	Guadalupe Mountains tiger beetle	TX.
1	D	R1	*Cicindela tranquebarica viridissima*	Cicindelidae	Greenest tiger beetle	CA.
2	U	R1	*Cicindella hirticollis gravida*	Cicindelidae	Sandy beach tiger beetle	CA, Mexico.
2	U	R1	*Cicindella tranquebarica* ssp.	Cicindelidae	San Joaquin tiger beetle	CA.
2	U	R1	*Coelus globosus*	Tenebrionidae	Globose dune beetle	CA, Mexico.
1	D	R1	*Coelus gracilis*	Tenebrionidae	San Joaquin dune beetle	CA.
2	U	R1	*Coelus pacificus*	Tenebrionidae	Channel Islands dune beetle	CA.
2	U	R1	*Coenonycha clementina*	Scarabaeidae	San Clemente Island coenonycha beetle	CA.
2	U	R4	*Copris gopheri*	Scarabaeidae	Copris tortoise commensal scarab (beetle).	FL.
2*	U	R4	*Cyclocephala miamiensis*	Scarabaeidae	Miami roundhead scarab (beetle)	FL*.
2	U	R2	*Cylloepus parkeri*	Elmidae	Parker's riffle beetle	AZ.
2	U	R2	*Cymbiodyta arizonica*	Hydrophilidae	Chiricahua water scavenger beetle	AZ.
2	U	R1	*Deinocossonus nesiotes*	Curculionidae	Oahu nesiotes weevil	HI.
2	U	R2	*Deronectes neomexicana*	Dytiscidae	Bonita diving beetle	NM, TX.
2*	U	R4	*Dasmopachria cenchramis*	Dytiscidae	Fig seed diving beetle	FL*.
2	U	R3	*Dicranopselaphus variegatus*	Eubriidae	Variegated false water penny (beetle)	IL.
2	U	R4	*Dryobius sexnotatus*	Cerambycidae	Sixbanded longhorn beetle	LA, MD, MS, OH, PA, AL*, AR*, IN*, KS*, KY*, MI*, MO*, TN*, VA*, WV*.
2	S	R5	*Dubiraphia* sp.	Elmidae	Dubiraphian riffle beetle (undescribed)	ME.
2	U	R1	*Dubiraphia brunnescens*	Elmidae	Brownish dubiraphian riffle beetle	CA.
2	U	R1	*Dubiraphia giulianii*	Elmidae	Giuliani's dubiraphian riffle beetle	CA.
2	U	R4	*Dubiraphia parva*	Elmidae	Little riffle beetle	OK, LA.
2	U	R3	*Dubiraphia robusta*	Elmidae	Robust dubiraphian riffle beetle	WI.
2	U	R1	*Eanus hatchi*	Elateridae	Hatch's click beetle	WA, Canada?.
2	U	R1	*Eopenthes* 17 spp.	Elateridae	Hawaiian eopenthes click beetles	HI.
2	U	R1	*Glacicavicola bathysciodes*	Leiodidae	Blind cave leiodid (beetle)	ID.
2	U	R1	*Glaresis arenata*	Scarabaeidae	Kelso Dune glaresis scarab (beetle)	CA.
2	U	R4	*Gronocarus multispinosus*	Scarabaeidae	Spiny Florida sandhill scarab (beetle)	FL.
2	U	R4	*Gymnocthebius maureenae*	Hydraenidae	Maureen's gymnocthebius minute moss beetle.	MS.
2	U	R2	*Haideoporus texanus*	Dytiscidae	Texas cave diving beetle	TX.
2*	U	R2	*Haliplus nitens*	Haliplidae	Disjunct crawling water beetle	TX?*, Canada*.
2	U	R1	*Heteramphus filicum*	Curculionidae	Oahu heteramphus fern weevil	HI.
2	U	R2	*Heterelmis comalensis*	Elmidae	(Riffle beetle, no common name)	TX.
2	U	R2	*Heterelmis stephani*	Elmidae	Stephan's riffle beetle	AZ.
2	U	R1	*Holcobius pikoensis*	Anobiidae	Piko anobiid beetle	HI.
2*	U	R5	*Horologion speokoites*	Carabidae	Arbuckle Cave ground beetle	WV*.
2	U	R2	*Huleechius marroni carolus*	Elmidae	Marron's San Carlos riffle beetle	AZ.

Status		Lead Region	Scientific name	Family	Common name	Historic range
Category	Trend					
2	U	R5	*Hydraena maureenae*	Hydraenidae	Maureen's hydraenan minute moss beetle.	VA.
2	U	R1	*Hydrochara ricksecker*	Hydrophilidae	Ricksecker's water scavenger beetle	CA.
2	U	R5	*Hydrochus* sp.	Hydrophilidae	Seth Forest water scavenger beetle	MD.
2*	U	R5	*Hydroporus elusivus*	Dytiscidae	Elusive hydroporus diving beetle	NH*.
2	U	R4	*Hydroporus folkertsi*	Dytiscidae	Folkerts' hydroporus diving beetle	AL.
2	U	R1	*Hydroporus hirsutus*	Dytiscidae	Wooly hydroporus diving beetle	CA.
2	U	R1	*Hydroporus leechi*	Dytiscidae	Leech's skyline diving beetle	CA.
2	U	R1	*Hydroporus simplex*	Dytiscidae	Simple hydroporus diving beetle	CA.
2	U	R6	*Hydroporus spangleri*	Dytiscidae	Spangler's hydroporus diving beetle	UT.
2*	U	R4	*Hydroporus sulphurius*	Dytiscidae	Sulphur Springs hydroporus diving beetle	AR*.
2	U	R6	*Hydroporus utahensis*	Dytiscidae	Utah hydroporus diving beetle	UT.
2	U	R1	*Hygrotus curvipes*	Dytiscidae	Curved-foot hygrotus diving beetle	CA.
2	D	R6	*Hygrotus diversipes*	Dytiscidae	Narrow-foot hygrotus diving beetle	WY.
2	U	R1	*Hygrotus fontinalis*	Dytiscidae	Travertine band-thigh diving beetle	CA.
2	U	R3	*Hygrotus sylvanus*	Dytiscidae	Sylvan hygrotus diving beetle	MN, MA*, NY*.
2	U	R1	*Itodacnus* 2 spp.	Elateridae	Necker itodacnus click beetles	HI.
3C		R5	*Laccophilus schwarzi*	Dytiscidae	Schwarz' diving beetle	AL, DC, MD, VA.
2	U	R1	*Lichnanthe albopilosa*	Scarabaeidae	White sand bear scarab (beetle)	CA.
2	U	R1	*Lichnanthe ursina*	Scarabaeidae	Bumblebee scarab (beetle)	CA.
2	U	R2	*Limnebius aridus*	Hydraenidae	Animas minute moss beetle	NM.
2	U	R2	*Limnebius texanus*	Hydraenidae	Texas minute moss beetle	TX.
2	U	R6	*Limnebius utahensis*	Hydraenidae	Utah minute moss beetle	UT.
2	U	R5	*Lordithon niger*	Staphylinidae	Black lordithon rove beetle	MO, Canada, AR*, CT*, DC*, GA*, IL*, KS*, KY* MI*, NY*, NC*, OH*, PA*, TX*, VA*, WV*.
2	U	R1	*Lytta hoppingi*	Meloidae	Hopping's blister beetle	CA.
2*	U	R1	*Lytta inseparata*	Meloidae	Mojave Desert blister beetle	CA*.
2	U	R2	*Lytta mirifica*	Meloidae	Anthony blister beetle	NM*, Mexico.
2*	U	R1	*Lytta moesta*	Meloidae	Moestan blister beetle	CA*.
2	U	R1	*Lytta molesta*	Meloidae	Molestan blister beetle	CA.
2	U	R1	*Lytta morrisoni*	Meloidae	Morrison's blister beetle	CA.
2	S	R6	*Microcylloepus browni*	Elmidae	Brown's microcylloepus riffle beetle	MT.
2	U	R4	*Micronaspis floridana*	Lampyridae	Florida intertidal firefly	FL.
2	U	R1	*Miloderes nelsoni*	Curculionidae	Nelson's miloderes weevil	CA.
2	U	R1	*Miloderes rulieni*	Curculionidae	Rulien's miloderes weevil	NV.
2	U	R4	*Mycotrupes pedester*	Scarabaeidae	Scrub Island burrowing scarab (beetle)	FL.
2	U	R1	*Nebria darlingtoni*	Carabidae	South Forks ground beetle	CA.
2	U	R1	*Nebria gebleri siskiyouensis*	Carabidae	Siskiyou ground beetle	CA.
2	U	R1	*Nebria sahlbergii triad*	Carabidae	Trinity Alps ground beetle	CA.
2	U	R1	*Necydalis rudei*	Cerambycidae	Rude's longhorn beetle	CA.
2	U	R1	*Nesotocus giffordi*	Curculionidae	Gifford's nesotocus weevil	HI.
2*	U	R1	*Nesotocus kauaiensis*	Curculionidae	Kauai nesotocus weevil	HI*.
2	U	R1	*Nesotocus munroi*	Curculionidae	Munro's nesotocus weevil	HI.
2	U	R1	*Ochthebius crassalus*	Hydraenidae	Wing-shoulder minute moss beetle	CA.
2	U	R3	*Ochthebius putnamensis*	Hydraenidae	Putnam minute moss beetle	IN*.
2	U	R1	*Ochthebius reticulatus*	Hydraenidae	Wilbur Springs minute moss beetle	CA.
2	D	R4	*Onthophagus polyphemi*	Scarabaeidae	Onthophagus tortoise commensal scarab (beetle).	SC, GA, FL, AL, MS.
2	U	R1	*Onychobaris langei*	Curculionidae	Lange's El Segundo Dune weevil	CA.
2	U	R1	*Oodemas,* 4 spp.	Curculionidae	Windward Chain Oodemas weevils	HI.
2	U	R4	*Optioservus browni*	Elmidae	Brown's optioservus riffle beetle	AR.
2	U	R1	*Optioservus canus*	Elmidae	Pinnacles optioservus riffle beetle	CA.
2	U	R6	*Optioservus phaeus*	Elmidae	Scott optioservus riffle beetle	KS.
2*	U	R1	*Paleoxenus dohrni*	Eucnemidae	Dohrn's elegant eucnemid beetle	CA*.
3C		R4	*Paracymus seclusus*	Hydrophilidae	Seclusive water scavenger beetle	MS.
2	U	R4	*Peltotrupes youngi*	Scarabaeidae	Ocala burrowing scarab (beetle)	FL.
2	U	R1	*Pentarthrum blackburni*	Curculionidae	Blackburn's pentarthrum weevil	HI.
2	U	R1	*Pentarthrum obscura*	Curculionidae	Obscure pentarthrum weevil	HI.
2	U	R4	*Photuris* sp.	Lampyridae	Turtle Mound firefly	FL.
2	U	R4	*Photuris brunnipennis floridana*	Lampyridae	Everglades brownwing firefly	FL.
2	U	R1	*Plagithymysus* ca 43 spp.	Cerambycidae	Hawaiian Plagithymysus longhorn beetles	HI.
2	U	R4	*Polylamina pubescens*	Scarabaeidae	Wooly Gulf dune scarab (beetle)	FL.
2	U	R1	*Polyphylla anteronivea*	Scarabaeidae	Saline Valley snow-front June beetle	CA.
2	U	R6	*Polyphylla avittata*	Scarabaeidae	Spotted Warner Valley Dunes June beetle.	UT.
2	U	R1	*Polyphylla barbata*	Scarabaeidae	Barbate June beetle	CA.
2	U	R1	*Polyphylla erratica*	Scarabaeidae	Death Valley June beetle	CA.
2	U	R1	*Polyphylla nubila*	Scarabaeidae	Atascadero June beetle	CA.
2	U	R1	*Polyphylla stellata*	Scarabaeidae	Delta June beetle	CA.
2	U	R1	*Proterhinus* 72 spp.	Proterhinidae	Hawaiian proterhinid beetles	HI.
2	U	R2	*Psephenus arizonensis*	Psephenidae	Arizona water penny (beetle)	AZ.
2	U	R2	*Psephenus montanus*	Psephenidae	White Mountains water penny (beetle)	AZ.
2	U	R4	*Pseudanophthalmus acherontis*	Carabidae	Echo Cave beetle	TN.
2	U	R4	*Pseudanophthalmus assimilis*	Carabidae	West Wills Valley cave beetle	AL.
2	U	R5	*Pseudanophthalmus avernus*	Carabidae	Avernus cave beetle	VA.
2	U	R4	*Pseudanophthalmus bendermani*	Carabidae	Benderman's cave beetle	TN.
2	U	R4	*Pseudanophthalmus calcareus*	Carabidae	Limestone Cave beetle	KY.

Status		Lead Region	Scientific name	Family	Common name	Historic range
Category	Trend					
2	U	R4	*Pseudanophthalmus catherinae*	Carabidae	Catherine's cave beetle	TN.
2	U	R5	*Pseudanophthalmus cordicollis*	Carabidae	Little Kennedy Cave beetle	VA.
2	U	R5	*Pseudanophthalmus deceptivus*	Carabidae	Deceptive cave beetle	VA.
2	U	R5	*Pseudanophthalmus egberti*	Carabidae	New River Valley cave beetle	VA.
2	U	R4	*Pseudanophthalmus engelhardti*	Carabidae	Engelhardt's cave beetle	TN.
2	U	R4	*Pseudanophthalmus fastigatus*	Carabidae	Tapered cave beetle	GA.
2	U	R4	*Pseudanophthalmus fowlerae*	Carabidae	Fowler's cave beetle	TN.
2	U	R4	*Pseudanophthalmus frigidus*	Carabidae	Icebox Cave beetle	KY.
2	U	R4	*Pseudanophthalmus georgiae*	Carabidae	Georgian cave beetle	GA.
2	U	R5	*Pseudanophthalmus hadenoecus*	Carabidae	Timber Ridge cave beetle	WV.
2	U	R5	*Pseudanophthalmus hirsutus*	Carabidae	Lee County cave beetle	TN, VA.
2	U	R5	*Pseudanophthalmus holsingeri*	Carabidae	Holsinger's cave beetle	VA.
2	U	R5	*Pseudanophthalmus hortulanus*	Carabidae	Garden cave beetle	VA.
2	U	R5	*Pseudanophthalmus hubbardi*	Carabidae	Hubbard's cave beetle	VA.
2	U	R5	*Pseudanophthalmus hubrichti*	Carabidae	Hubricht's cave beetle	VA.
2	U	R4	*Pseudanophthalmus hypolithos*	Carabidae	Stone-dwelling cave beetle	KY.
2	U	R3	*Pseudanophthalmus illinoisensis*	Carabidae	Illinois cave beetle	IL.
2	U	R4	*Pseudanophthalmus inquisitor*	Carabidae	Searcher cave beetle	TN.
2	U	R4	*Pseudanophthalmus insularis*	Carabidae	Baker Station Cave beetle	TN.
2	U	R5	*Pseudanophthalmus intersectus*	Carabidae	Crossroads cave beetle	VA.
2	U	R4	*Pseudanophthalmus jonesi*	Carabidae	Grassy Cove cave beetle	TN.
2	U	R3	*Pseudanophthalmus krameri*	Carabidae	Kramer's cave beetle	OH.
2*	D	R5	*Pseudanophthalmus krekeleri*	Carabidae	Rich Mountain cave beetle	WV*.
2	U	R5	*Pseudanophthalmus lallemanti*	Carabidae	Lallemant's cave beetle	WV.
2	U	R5	*Pseudanophthalmus limicola*	Carabidae	Mud-dwelling cave beetle	VA.
2	U	R4	*Pseudanophthalmus longiceps*	Carabidae	Long-headed cave beetle	TN, VA.
2	U	R5	*Pseudanophthalmus montanus*	Carabidae	Dry Fork Valley cave beetle	WV.
2	U	R5	*Pseudanophthalmus nelsoni*	Carabidae	Nelson's cave beetle	VA.
2	U	R4	*Pseudanophthalmus nortoni*	Carabidae	Norton's cave beetle	TN.
2	U	R4	*Pseudanophthalmus occidentalis*	Carabidae	Western cave beetle	TN.
2	U	R3	*Pseudanophthalmus ohioensis*	Carabidae	Ohio cave beetle	OH.
2	U	R4	*Pseudanophthalmus pallidus*	Carabidae	Pale cave beetle	TN.
2	U	R4	*Pseudanophthalmus paradoxus*	Carabidae	Ridgetop cave beetle	TN.
2	U	R5	*Pseudanophthalmus parvicollis*	Carabidae	Thin-neck cave beetle	VA.
2	U	R4	*Pseudanophthalmus paulus*	Carabidae	Nobletts Cave beetle	TN.
2	U	R4	*Pseudanophthalmus paynei*	Carabidae	Payne's cave beetle	TN.
2	U	R5	*Pseudanophthalmus petrunkevitchi*	Carabidae	Petrunkevitch's cave beetle	VA.
2	U	R5	*Pseudanophthalmus pontis*	Carabidae	Natural Bridge cave beetle	VA.
2	U	R5	*Pseudanophthalmus potomaca potomaca*	Carabidae	South Branch Valley cave beetle	WV, VA.
2	U	R5	*Pseudanophthalmus potomaca senecae*	Carabidae	Seneca cave beetle	WV.
2	U	R5	*Pseudanophthalmus praetermissus*	Carabidae	Overlooked cave beetle	VA.
2	U	R5	*Pseudanophthalmus punctatus*	Carabidae	Spotted cave beetle	VA.
2	U	R4	*Pseudanophthalmus pusillus*	Carabidae	Tiny cave beetle	TN.
2	U	R5	*Pseudanophthalmus quadratus*	Carabidae	Straley's Cave beetle	VA.
2	U	R4	*Pseudanophthalmus rogersae*	Carabidae	Rogers' cave beetle	KY.
2	U	R5	*Pseudanophthalmus sanctipauli*	Carabidae	Saint Paul cave beetle	VA.
2	U	R4	*Pseudanophthalmus scholasticus*	Carabidae	Schoolhouse cave beetle	KY.
2	U	R4	*Pseudanophthalmus scutilis*	Carabidae	Lean cave beetle	TN.
2	U	R4	*Pseudanophthalmus sequoyah*	Carabidae	Sequoyah cave beetle	AL.
2	U	R5	*Pseudanophthalmus sericus*	Carabidae	Silken cave beetle	VA.
2	U	R4	*Pseudanophthalmus sidus*	Carabidae	Meridith Cave beetle	TN.
2	U	R4	*Pseudanophthalmus simplex*	Carabidae	Simple cave beetle	TN.
2	U	R5	*Pseudanophthalmus subaequalis*	Carabidae	Greenbrier Valley cave beetle	WV.
2	U	R5	*Pseudanophthalmus thomasi*	Carabidae	Thomas' cave beetle	VA.
2	U	R4	*Pseudanophthalmus tiresias*	Carabidae	Indian Grave Point cave beetle	TN.
2	U	R4	*Pseudanophthalmus unionis*	Carabidae	Union County cave beetle	TN.
2	U	R4	*Pseudanophthalmus ventus*	Carabidae	Blowing Cave beetle	TN.
2	U	R5	*Pseudanophthalmus virginicus* (=*Aphanotrechus v.*).	Carabidae	Maiden Spring cave beetle	VA
2	U	R4	*Pseudanophthalmus wallacei*	Carabidae	Wallace's cave beetle	TN.
2	U	R1	*Pseudocotalpa andrewsi*	Scarabaeidae	Andrews' dune scarab beetle	CA.
2	U	R1	*Pseudocotalpa giulianii*	Scarabaeidae	Giuliani's dune scarab (beetle)	NV.
2	U	R2	*Pterostichus rothi*	Carabidae	Roth's blind ground beetle	OR.
2	U	R4	*Rhadine ozarkensis*	Carabidae	(Ground beetle, no common name)	AR.
2	U	R1	*Rhyncogonus* 23 spp.	Curculionidae	Hawaiian rhyncogonus snout beetles	HI.
2	U	R1	*Scaphinotus behrensi*	Carabidae	(Ground beetle, no common name)	CA.
2	U	R4	*Scaphinotus inflectus*	Carabidae	(Ground beetle, no common name)	AR.
2	U	R1	*Scaphinotus longiceps*	Carabidae	Humboldt ground beetle	CA.
2	U	R4	*Scaphinotus parisiana*	Carabidae	(Ground beetle, no common name)	AR.
2	U	R1	*Serica* sp.	Scarabaeidae	Sand Mountain serican scarab (beetle)	NV.
2	U	R1	*Serica* sp.	Scarabaeidae	Crescent Dune serican scarab (beetle)	NV.
2	U	R4	*Serica frosti*	Scarabaeidae	Frost's spring serican scarab (beetle)	FL.
2*	U	R4	*Serica tantula*	Scarabaeidae	Tantula serican scarab (beetle)	FL*.
2	U	R4	*Spanglerogyrus albiventris*	Gyrinidae	Red Hills unique whirligig (beetle)	AL.
2	U	R5	*Sphaerodorus schaumi* ssp.	Carabidae	Schaum's Blue Ridge ground beetle	VA.
2	S	R1	*Stenelmis calida calida*	Elmidae	Devil's Hole warm spring riffle beetle	NV
2	U	R1	*Stenelmis calida moapa*	Elmidae	Moapa warm springs riffle beetle	NV
2	U	R3	*Stenelmis douglasensis*	Elmidae	Douglas stenelmis riffle beetle	WI, IN*, MI*.
2	U	R4	*Stenelmis gammoni*	Elmidae	Gammon's stenelmis riffle beetle	NC, AL, VA.

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Category	Trend					
2	U	R1	*Stenotrupis pritchardiae*	Curculionidae	Nihoa stenotrupis weevil	HI.
2	U	R4	*Trigonopelastes floridana*	Scarabaeidae	Scrub palmetto flower scarab (beetle)	FL.
1	D	R1	*Trigonoscuta* sp.	Curculionidae	Doyen's trigonoscuta dune weevil	CA.
2	U	R1	*Trigonoscuta blaisdelli*	Curculionidae	Blaisdell trigonoscuta weevil	CA.
2*	U	R1	*Trigonoscuta brunnotasselata*	Curculionidae	Brown-tassel trigonoscuta weevil	CA*.
2	U	R1	*Trigonoscuta catalina*	Curculionidae	Santa Catalina Island trigonscuta weevil	CA.
2	U	R1	*Trigonoscuta dorothea dorothea*	Curculionidae	Dorothy's El Segundo Dune weevil	CA.
2	U	R1	*Trigonoscuta stantoni*	Curculionidae	Santa Cruz Island shore weevil	CA.
2	U	R4	*Trox howelli*	Scarabaeidae	Caracara commensal scarab (beetle)	FL.
2	S	R6	*Zaitzevia thermae*	Elmidae	Warm spring zaitzevian riffle beetle	MT.
			SCORPIONFLIES & ALLIES (INSECTS, ORDER MECOPTERA).			
2	U	R1	*Orbittacus obscurus*	Bittacidae	Gold rush hanging fly	CA.
			FLIES (INSECTS, ORDER DIPTERA).			
2	U	R1	*Ablautus schlingeri*	Asilidae	Oso Flaco robber fly	CA.
2	U	R4	*Asaphomyia floridensis*	Tabanidae	Florida asaphomyian tabanid fly	FL.
2*	U	R2	*Asaphomyia texanus*	Tabanidae	Texas asaphomyian tabanid fly	TX*.
2	U	R1	*Bryania bipunctata*	Asteriidae	Nihoa two-spotted asteriid fly	HI.
3A		R1	*Chersodromia hawaiiensis*	Empididae	Hawaiian chersodromian dance fly	HI*.
2*	U	R1	*Cophura hurdi*	Asilidae	Antioch cophuran robberfly	CA*.
2	U	R1	*Efferia antiochi*	Asilidae	Antioch efferian robberfly	CA.
2	U	R4	*Eutonchus marialiciae*	Acroceridae	Mary Alice's smallheaded fly	NC.
2	U	R4	*Merycomyia brunnea*	Tabanidae	Brown merycomyian tabanid fly	FL.
2	U	R1	*Metapogon hurdi*	Asilidae	Hurd's metapogon robberfly	CA.
2	U	R4	*Mixogaster delongi*	Syrphidae	Delong's mixogaster flower fly	FL.
2	U	R4	*Nemopalpus nearcticus*	Psychodidae	Sugarfoot moth fly	FL.
2	U	R1	*Paracoenia calida*	Ephydridae	Wilbur Springs shore fly	CA.
1	D	R1	*Rhaphiomidas terminatus abdominalis*	Apioceridae	Delhi Sands flower-loving fly	CA.
3A		R1	*Rhaphiomidas terminatus terminatus*	Apioceridae	El Segundo flower-loving fly	CA.
3A		R1	*Rhaphiomidas trochilus*	Apioceridae	Valley mydas fly	CA*.
			BUTTERFLIES & MOTHS (INSECTS, ORDER LEPIDOPTERA).			
2	D	R5	*Acronicta albarufa*	Noctuidae	Albarufan dagger moth	AR, MA, MO, NJ, Canada, CT*, GA*, NC*, NY*, PA*, OH*, CO*, NM*.
2	U	R1	*Adela oplerella*	Incurvariidae	Opler's longhorn moth	CA.
2	U	R2	*Adhemarius blanchardorum*	Sphingidae	Blanchards' sphinx moth	TX.
2	S	R5	*Agrotis buchholzi*	Noctuidae	Buchholz' dart moth	NJ.
3A		R1	*Agrotis kerri*	Noctuidae	Kerr's agrotis noctuid moth	HI*.
3A		R1	*Agrotis procellaris*	Noctuidae	Procellaris agrotis noctuid moth	HI*.
2	U	R4	*Anaea troglodyta floridalis*	Nymphalidae	Florida leafwing (butterfly)	FL.
2	U	R3	*Apamea smythi*	Noctuidae	Smyth's apamea moth	IL, VA*.
2	U	R1	*Arenisocythris brachypteris*	Scythrididae	Oso Flaco flightless moth	CA.
2	D	R5	*Atrytone arogos arogos*	Hesperiidae	Eastern beard grass skipper	AL, FL, MS, NC, NY, NJ, SC, GA*, PA*, VA*.
2	U	R1	*Carolella busckana*	Phaloniidae	Busck's gall moth	CA.
2	U	R1	*Carterocephalus palaemon* ssp.	Hesperiidae	Sonoma arctic skipper	CA.
2	S	R5	*Catocala pretiosa pretiosa*	Noctuidae	Precious underwing (moth)	NJ, NH*, CT*, MA*, NY*, PA*, OH*, MD*, VA*.
2	U	R1	*Cercyonis pegala* ssp.	Nymphalidae	Carson Valley wood nymph (butterfly)	CA, NV.
2	U	R1	*Cercyonis pegala* ssp.	Nymphalidae	White River wood nymph (butterfly)	NV.
2	U	R1	*Chlosyne acastus*	Nymphalidae	Spring Mountains acastus checkerspot (butterfly).	NV.
2	U	R1	*Chlosyne leanira osoflaco*	Nymphalidae	Oso Flaco patch butterfly	CA.
2	U	R1	*Coenonympha tullia yontockett*	Nymphalidae	Yontocket saytr (butterfly)	CA.
2	U	R5	*Crambus daeckeellus*	Pyralidae	Daecke's pyralid moth	NJ.
2	U	R6	*Decodes stevensi*	Tortricidae	Stevens' tortricid moth	CO.
3A		R5	*Ectodemia phleophaga*	Nepticulidae	Phleophagan chestnut nepticulid moth	MD*.
2	U	R3	*Erythroecia hebardi*	Noctuidae	Hebard's noctuid moth	OH, NJ, VA*.
2	U	R6	*Ethmia monachella*	Ethmiidae	Lost ethmiid moth	CO.
2	U	R5	*Euchlaena milnei*	Geometridae	(Looper moth, no common name)	VA, WI, NC*, OH*, IL*.
2	U	R1	*Euchloe hyantis andrewsi*	Pieridae	Andrew's marble butterfly	CA.
2	U	R1	*Eucosma hennei*	Olethreutidae	Henne's eucosman moth	CA.
2	S	R4	*Eumaeus atala florida*	Lycaenidae	Florida atala (butterfly)	FL.
2	U	R1	*Euphilotes battoides* ssp.	Lycaenidae	Baking Powder Flat blue (butterfly)	NV.
2	U	R1	*Euphilotes enoptes* ssp.	Lycaenidae	Dark blue (butterfly)	NV.
2	D	R1	*Euphilotes rita* ssp.	Lycaenidae	Sand Mountain blue (butterfly)	NV.
2	U	R1	*Euphilotes rita mattoni* (=*Shijimaeoides r. m.*).	Lycaenidae	Mattoni's blue (butterfly)	NV.
2	U	R1	*Euphydryas anicia morandi*	Nymphalidae	Morand's checkerspot (butterfly)	NV.
2	U	R1	*Euphydryas editha monoensis*	Nymphalidae	Mono checkerspot (butterfly)	CA, NV.
1	D	R1	*Euphydryas editha quino* (=*E. e. wrighti*)	Nymphalidae	Wright's checkerspot (butterfly)	CA, Mexico.
2	U	R4	*Euphyes bayensis*	Hesperiidae	(Skipper, no common name)	MS.
2	U	R1	*Euphyes vestris harbisoni*	Hesperiidae	Dun skipper	CA.
2	U	R1	*Fletcherana ioxantha*	Geometridae	Ioxanthan looper (moth)	HI.

Status		Lead Region	Scientific name	Family	Common name	Historic range
Category	Trend					
2*	U	R1	*Hedylelpta asaphombra*	Pyralidae	'Ohe hedyleptan moth	HI*.
2*	U	R1	*Hedylepta anastrepta*	Pyralidae	Molokai sedge hedyleptan moth	HI*.
2	U	R1	*Hedylepta anastreptoides*	Pyralidae	Kohala Mountain sedge hedyleptan moth	HI.
2*	U	R1	*Hedylepta euryprora*	Pyralidae	Ola'a banana hedyleptan moth	HI*.
2*	U	R1	*Hedylepta fullawayi*	Pyralidae	Fullaway's banana hedyleptan moth	HI*.
2*	U	R1	*Hedylepta giffardi*	Pyralidae	Giffard's 'ohe hedyleptan moth	HI*.
2*	U	R1	*Hedylepta iridias*	Pyralidae	Kilauea pa'iniu hedyleptan moth	HI*.
2*	U	R1	*Hedylepta meyricki*	Pyralidae	Meyrick's banana hedyleptan moth	HI*.
2*	U	R1	*Hedylepta monogona*	Pyralidae	Hawaiian bean leafroller (moth)	HI*.
2*	U	R1	*Hedylepta musicola*	Pyralidae	Maui banana hedyleptan moth	HI*.
2*	U	R1	*Hedylepta pritchardii*	Pyralidae	Hawaiian lo'ulu hedyleptan moth	HI*.
3A		R1	*Helicoverpa confusa*	Noctuidae	Confused helicoverpan noctuid moth	HI*.
3C	U	R4	*Hemiargus thomasi bethunebakeri*	Lycaenidae	Miami blue (butterfly)	FL.
2	D	R5	*Hemileuca* sp.	Saturniidae	(Buckmoth, no common name)	NY, Canada.
2	U	R1	*Hesperia comma* ssp.	Hesperiidae	Spring Mountain comma skipper	NV.
2	U	R3	*Hesperia dacotae*	Hesperiidae	Dakota skipper	MN, IA, SD, ND, IL*, Canada.
2	U	R1	*Hesperia mirimae* ssp.	Hesperiidae	White Mountains skipper	CA, NV.
2	U	R1	*Hesperia uncas* ssp.	Hesperiidae	Railroad Valley skipper	NV.
2	D	R1	*Hesperopsis gracielae*	Hesperiidae	MacNeill sooty wing skipper	AZ, CA, NV, UT.
2	U	R1	*Heterocrossa viridis* (=*Carposina v.*)	Carposinidae	Green heterocrossan carposinid moth	HI.
3A		R1	*Hypena* (=*Nesamiptis*) *laysanensis*	Noctuidae	Laysan dropseed noctuid moth	HI*.
3A		R1	*Hypena* (=*Nesamiptis*) *newelli*	Noctuidae	Hilo hypenan noctuid moth	HI*.
3A		R1	*Hypena* (=*Nesamiptris*) *senicula*	Noctuidae	Kaholuamano noctuid moth	HI*.
2	U	R1	*Icaricia icarioides* ssp.	Lycaenidae	Point Reyes blue (butterfly)	CA.
2	U	R1	*Icaricia icarioides fenderi*	Lycaenidae	Fender's blue (butterfly)	OR.
2	U	R1	*Icaricia icarioides moroensis*	Lycaenidae	Morro Bay blue (butterfly)	CA.
3A		R1	*Icaricia icarioides pheres*	Lycaenidae	Pheres blue (butterfly)	CA.
2	D	R4	*Idia gopheri*	Noctuidae	Tortoise commensal noctuid moth	FL.
3C		R5	*Incisalia lanoraieensis* (=*Callophrys*, =*Mitoura l.*).	Lycaenidae	Bog elfin butterfly	ME, NY, Canada, NH*.
2	U	R1	*Incisalia mossii* ssp.	Lycaenidae	San Gabriel Mountains elfin (butterfly)	CA.
2	U	R1	*Incisalia mossii* ssp.	Lycaenidae	Marin elfin (butterfly)	CA
2*	U	R5	*Lambdina canitiaria*	Geometridae	(Looper moth, no common name)	NY*
2	U	R1	*Limenitus archippus lahontani*	Nymphalidae	Nevada viceroy (butterfly)	NV.
2	U	R1	*Limenitus weidemeyerii nevadae*	Nymphalidae	Nevada admiral (butterfly)	NV.
3C		R5	*Lithophane lemmeri*	Noctuidae	Lemmer's pinnion (=noctuid) moth	FL, MD, NC, NJ, NY, SC, VA, CT*.
2*	U	R4	*Luperina trigona*	Noctuidae	(Noctuid moth, no common name)	TN*.
1	D	R3	*Lycaeides melissa samuelis*	Lycaenidae	Karner blue (butterfly)	IN, MI, NH, NY, OH, WI, IL*, MA*, PA*.
2	S	R5	*Lycaena dorcas claytoni*	Lycaenidae	Clayton's copper (butterfly)	ME.
2	U	R1	*Lycaena hermes*	Lycaenidae	Hermes copper (butterfly)	CA, Mexico.
2	U	R1	*Lycaena rubicus* ssp.	Lycaenidae	White Mountains copper (butterfly)	CA, NV.
2	U	R4	*Lytrosis permagnaria*	Geometridae	(Looper moth, no common name)	GA, KY, MO, TN, MS*.
2	U	R1	*Margaronia cyanomichla*	Pyralidae	Blue margaronian moth	HI.
2	U	R1	*Margaronia exaula*	Pyralidae	Green margaronian moth	HI.
2	U	R4	*Mitoura* (=*Callophrys*) *gryneus sweadneri.*	Lycaenidae	Sweadner's olive hairstreak (butterfly)	FL.
2	U	R1	*Mitoura thornei*	Lycaenidae	Thorne's hairstreak (butterfly)	CA.
2	D	R3	*Neonympha mitchellii francisci*	Nymphalidae	Mitchell satyr (butterfly)	NC.
2	U	R1	*Oeobia dryadopa*	Pyralidae	'Ohenaupaka oeobian moth	HI.
2	U	R1	*Panoquina errans* (=*panoquinoides e.*)	Hesperiidae	Salt marsh skipper	CA, Mexico.
2	S	R5	*Papaipema* sp.	Noctuidae	Flypoison borer moth	PA.
2*	U	R3	*Papaipema aweme*	Noctuidae	(Noctuid moth, no common name)	MI*, NY*, Canada*.
2	U	R3	*Papaipema eryngii*	Noctuidae	Rattlesnake-master borer moth	IL, IN*.
2	U	R5	*Papaipema sulphurata*	Noctuidae	Decodon borer moth	MA.
2*	U	R1	*Petrochroa neckerensis*	Gracilariidae	Necker petrochroan leaf miner (moth)	HI.
2	U	R1	*Philotiella speciosa bohartorum*	Lycaenidae	Boharts' blue (butterfly)	CA.
2	U	R3	*Phyciodes batesi*	Nymphalidae	Tawny crescent butterfly	NC, VA, NY, MI, WI, ND, SD, MN, Canada, GA*, WV*, PA*, NJ*.
2	U	R1	*Phyciodes pascoensis* ssp.	Nymphalidae	Steptoe Valley crescentspot (butterfly)	NV.
2	U	R1	*Plebulina emigdionis* (=*Plebejus e.*)	Lycaenidae	San Emigdio blue (butterfly)	CA.
2	U	R1	*Plejebus icarioides* ssp.	Lycaenidae	White Mountains icarioides blue (butterfly).	CA, NV.
2	U	R1	*Plejebus icarioides* ssp.	Lycaenidae	Spring Mountains icarioides blue (butterfly).	CA, NV.
2	U	R1	*Plejebus saepiolus* ssp.	Lycaenidae	San Gabriel Mountains blue (butterfly)	CA.
2	U	R1	*Plejebus saepiolus* ssp.	Lycaenidae	White Mountains saepiolus blue (butterfly).	CA, NV.
2	D	R1	*Plejebus shasta charlestonensis*	Lycaenidae	Spring Mountains blue (butterfly)	NV.
2	U	R5	*Poanes massasiot chermocki*	Hesperiidae	Chermock's mulberry wing skipper	MD.
2	U	R1	*Polites mardon*	Hesperiidae	Mardon skipper	CA.
2	U	R1	*Polites sabuleti albomontana*	Hesperiidae	White Mountains sandhill skipper	CA, NV.
2	U	R1	*Polites sabuleti sinemaculata*	Hesperiidae	Denio sandhill skipper	NV.
2	U	R4	*Problema bulenta*	Hesperiidae	Rare skipper	MD, VA, NC, SC, GA.
2	U	R1	*Psammobotys fordi*	Pyralidae	Ford's sand dune moth	CA.
2	U	R1	*Pseudocopaeodes eunus eunus*	Hesperiidae	Wandering skipper	CA, NV?, AZ?, Mexico?.

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Category	Trend					
2	U	R4	*Pyreferra ceromatica*	Noctuidae	Annointed sallow (=ceromatic) noctuid moth.	AL, FL, SC, IN, AL*, CT*, MA*, ME*, NJ*, NY*, Canada*.
2	U	R1	*Pyrgus ruralis laguna*	Hesperiidae	Laguna Mountains skipper	CA.
2	D	R5	*Pyrgus wyandot*	Hesperiidae	Grizzled skipper	KY, MD, MI, NY, OH, PA, VA, WV, NJ*.
2	U	R1	*Satyrium auretorum fumosum*	Lycaenidae	Santa Monica Mountains hairstreak (butterfly).	CA.
2	U	R3	*Schinia indiana*	Noctuidae	(Noctuid moth, no common name)	MI, MN, WI, AR?*, IL*, IN*, NC?, NE?, TX?.
2	D	R4	*Schinia rufipinna*	Noctuidae	Tortoise commensal noctuid moth	FL.
3A		R1	*Scotorythra nesiotes (=Acrodreparnis n.)*	Geometridae	Ko'olau giant looper (moth)	HI*.
2	S	R5	*Spartiniphaga carterae*	Noctuidae	Carter's noctuid moth	NC, NJ.
2	U	R1	*Speyeria adiaste adiaste*	Nymphalidae	Unsilvered fritillary (butterfly)	CA.
2	U	R1	*Speyeria atlantis greyi*	Nymphalidae	Grey's silverspot (butterfly)	NV.
1	D	R1	*Speyeria callippe callippe*	Nymphalidae	Callippe silverspot (butterfly)	CA.
2	U	R4	*Speyeria diana*	Nymphalidae	Diana fritillary (butterfly)	AR, GA, MO, NC, SC, TN, VA, WV, IL*, IN*, LA*, MD*, MS*, OH*, PA*.
2	U	R1	*Speyeria egleis tehachapina*	Nymphalidae	Tehachapi Mountain silverspot (butterfly)	CA.
2	D	R5	*Speyeria idalia*	Nymphalidae	Regal fritillary (butterfly)	MA, MD, VA, WV, PA, OH, IN, MI, IL, MO, MN, WI, IA, OK, KS, NE, SD, ND, CO, CT*, DE*, ME*, MT*, NC*, NH*, NJ*, NY*, RI*, VT*, Canada.
2	U	R1	*Speyeria nokomis* ssp.	Nymphalidae	Carson Valley silverspot (butterfly)	CA, NV.
2	U	R2	*Speyeria nokomis caerulescens*	Nymphalidae	Blue silverspot (butterfly)	AZ*, Mexico.
2	D	R6	*Speyeria nokomis nokomis*	Nymphalidae	Great basin silverspot (butterfly)	CO, UT.
1	D	R1	*Speyeria zerene behrensii*	Nymphalidae	Behren's silverspot (butterfly)	CA.
2	D	R1	*Speyeria zerene carolae*	Nymphalidae	Carole's silverspot (butterfly)	NV.
1	D	R1	*Speyeria zerene myrtleae*	Nymphalidae	Myrtle's silverspot (butterfly)	CA.
2	U	R1	*Spheterista ohecheana*	Tortricidae	'Ohe'ohe leafroller (moth)	HI.
2	U	R1	*Spheterista pterotropiana*	Tortricidae	Greenbanded 'ohe'ohe leafroller (moth)	HI.
2	U	R1	*Spheterista reynoldsiana*	Tortricidae	Wailupe leafroller (moth)	HI.
2	U	R2	*Stallingsia maculosus*	Megathymidae	Maculated manfreda skipper	TX, Mexico.
2	U	R4	*Strymon acis bartrami*	Lycaenidae	Bartram's hairstreak (butterfly)	FL.
2	U	R4	*Synanthedon castaneae*	Sesiidae	Chestnut clearwing moth	GA, VA*, PA*, SC*, ME*, MS*, NY*.
2	U	R1	*Tinostoma smaragditis*	Sphingidae	Fabulous green sphinx of Kauai (moth)	HI.
3A		R1	*Tritocleis microphylla*	Geometridae	'Ola' a pepppered looper (moth)	HI*.
2	S	R4	*Zale perculta*	Noctuidae	Okefenokee zale moth	GA, FL*.
			CADDISFLIES (INSECTS, ORDER TRICHOPTERA).			
2	U	R3	*Agapetus artesus*	Glossosomatidae	Artesian agapetus caddisfly	MO.
2	U	R1	*Agapetus denningi*	Glossosomatidae	Denning's agapetus caddisfly	OR*.
2	U	R4	*Agapetus jocassee*	Glossosomatidae	(Caddisfly, no common name)	NC, SC.
2	U	R4	*Agapetus madicus*	Glossosomatidae	Arkansas agapetus caddisfly	AR.
2	U	R4	*Agarodes alabamensis*	Sericostomatidae	(Caddisfly, no common name)	AL.
2	U	R4	*Agarodes stannardi*	Sericostomatidae	Stannard's agarodes caddisfly	MS, TN.
2	U	R4	*Agarodes ziczac*	Sericostomatidae	Zigzag blackwater caddisfly	FL.
2	U	R1	*Apatania tavala (=Radema t.)*	Limnephilidae	Cascades apatanian caddisfly	OR.
2	U	R4	*Ceraclea* sp.	Leptoceridae	(Caddisfly, no common name)	NC.
2*	U	R4	*Ceraclea floridana*	Leptoceridae	Florida ceraclean longhorn caddisfly	FL*.
2	U	R1	*Ceraclea vertreesi (=Athripsodes v.)*	Leptoceridae	Vertrees's ceraclean caddisfly	OR.
2	U	R2	*Cheumatopsyche flinti*	Hydropsychidae	Flint's net-spinning caddisfly	TX.
2	U	R5	*Cheumatopsyche helma*	Hydropsychidae	Helma's net-spinning caddisfly	ME, KY*, PA*, TN*.
2	U	R4	*Cheumatopsyche morsei*	Hydropsychidae	Morse's net-spinning caddisfly	LA.
2	U	R5	*Cheumatopsyche vannotai*	Hydropsychidae	Vannote's net-spinning caddisfly	PA.
2	U	R3	*Chilostigma itascae*	Limnephilidae	Headwater chilostigman caddisfly	MN.
2	U	R4	*Chimarra holzenthali*	Philoptamidae	(Caddisfly, no common name)	LA.
2	U	R1	*Cryptochia denningi*	Limnephilidae	Denning's cryptic caddisfly	CA.
2	U	R1	*Cryptochia excella*	Limnephilidae	Kings Canyon cryptochian caddisfly	CA.
2	U	R1	*Cryptochia neosa*	Limnephilidae	Blue Mountains cryptochian caddisfly	OR.
2	U	R1	*Cryptochia shasta*	Limnephilidae	Confusion caddisfly	CA.
2	U	R1	*Desmona bethula*	Limnephilidae	Amphibious caddisfly	CA.
2	U	R1	*Diplectrona californica*	Hydropsychidae	California diplectronan caddisfly	CA.
2	U	R4	*Diplectrona rossi*	Hydropsychidae	(Caddisfly, no common name)	LA.
2	U	R1	*Ecclisomyia bilera*	Limnephilidae	King's Creek ecclisomyian caddisfly	CA.
2	U	R1	*Eobrachycentrus gelidae*	Brachycentridae	Mt. Hood primitive brachycentrid caddisfly	OR.
2	U	R1	*Farula* sp.	Limnephilidae	Long-tailed caddisfly	CA.
2*	U	R1	*Farula davisi*	Limnephilidae	Green Springs Mountain farulan caddisfly	OR*.
2	U	R1	*Farula jewetti*	Limnephilidae	Mt. Hood farulan caddisfly	OR.
2	U	R1	*Farula reaperi*	Limnephilidae	Tombstone Prairie farulan caddisfly	OR.
2	U	R3	*Glyphopsyche missouri*	Limnephilidae	Missouri glyphopsyche caddisfly	MO.
2	U	R1	*Goeracea oregona*	Limnephilidae	Sagehen Creek goeracean caddisfly	CA.
2	U	R4	*Helicopsyche paralimnella*	Helicopsychidae	(Caddisfly, no common name)	NC, SC.
2	u	R1	*Homoplectra schuhi*	Hydropsychidae	Schuh's homoplectran caddisfly	OR.

Status		Lead Region	Scientific name	Family	Common name	Historic range
Category	Trend					
2	U	R1	*Hydropsyche abella*	Hydropsychidae	Abellan hydropsyche caddisfly	OR.
2	U	R4	*Hydropsyche etnieri*	Hydropsychidae	Buffalo Springs caddisfly	TN.
2	U	R2	*Hydropsyche reiseni*	Hydropsychidae	Reisen's hydropsyche caddisfly	OK.
2	U	R4	*Hydroptila chelops*	Hydroptilidae	(Caddisfly, no common name)	AL.
2	U	R4	*Hydroptila decia*	Hydroptilidae	Knoxville hydroptilan micro caddisfly	TN.
2	U	R4	*Hydroptila englishi*	Hydroptilidae	(Caddisfly, no common name)	NC, SC.
2	U	R4	*Hydroptila lagoi*	Hydroptilidae	(Caddisfly, no common name)	AL.
2	U	R4	*Hydroptila ouachita*	Hydroptilidae	(Caddisfly, no common name)	LA.
2	U	R1	*Lepidostoma ermanae*	Lepidostomatidae	Cold Spring caddisfly	CA.
2	U	R1	*Lepidostoma goedeni*	Lepidostomatidae	Goeden's lepidostoman caddisfly	OR.
2	U	R1	*Limnephilus atercus*	Limnephilidae	Fort Dick limnephilus caddisfly	CA, OR.
2	U	R2	*Metrichia volada*	Hydroptilidae	Page Spring micro caddisfly	AZ.
2	U	R1	*Neothremma andersoni*	Limnephilidae	Columbia Gorge neothremman caddisfly	OR.
2	U	R1	*Neothremma genella*	Limnephilidae	Golden-horned caddisfly	CA.
2	U	R1	*Neothremma siskiyou*	Limnephilidae	Siskiyou caddisfly	CA.
2	U	R3	*Neotrichia kitae*	Hydroptilidae	Kite's neotrichian micro caddisfly	MO.
3C		R1	*Ochrotrichia alsea*	Hydroptilidae	Alsea ochrotrichian micro caddisfly	OR.
2	U	R4	*Ochrotrichia contorta*	Hydroptilidae	Contorted ochrotrichian micro caddisfly	MO, AR.
2	U	R4	*Ochrotrichia elongiralla*	Hydroptilidae	(Caddisfly, no common name)	AL.
2	U	R1	*Ochrotrichia phenosa*	Hydroptilidae	Deschutes ochrotrichian micro caddisfly	OR*.
2	U	R4	*Ochrotrichia provosti*	Hydroptilidae	Provost's ochrotrichian micro caddisfly	FL.
2	U	R1	*Ochrotrichia vertreesi*	Hydroptilidae	Vertrees's ochrotrichian micro caddisfly	OR.
2*	U	R4	*Oecetis parva*	Leptoceridae	Little oecetis longhorn caddisfly	FL*.
2	U	R1	*Oligophlebodes mostbento*	Limnephilidae	Tombstone Prairie oligophlebodes caddisfly.	OR.
2	U	R4	*Oxyethira florida*	Hydroptilidae	Florida oxyethiran micro caddisfly	FL, TX?.
2	U	R4	*Paduniella nearctica*	Psychomyidae	Nearctic paduniellan caddisfly	AR.
2*	U	R1	*Parapsyche extensa*	Hydropsychidae	King's Creek parapsyche caddisfly	CA*.
2*	U	R1	*Philocasca oron*	Limnephilidae	Clatsop philocascan caddisfly	OR*.
2	S	R4	*Polycentropus carlsoni*	Polycentropodidae	Carlson's polycentropus caddisfly	SC.
2	U	R4	*Polycentropus harrisi*	Polycentropidae	(Caddisfly, no common name)	AL.
2	U	R2	*Protoptila arca*	Glossosomatidae	San Marcos saddle-case caddisfly	TX.
2	U	R2	*Protoptila balmorhea*	Glossosomatidae	Balmorhea saddle-case caddisfly	AZ, TX.
2	U	R4	*Protoptila cahabensis*	Glossosomatidae	Cahaba saddle-case caddisfly	AL.
2	U	R6	*Rhyacophila alexanderi*	Rhyacophilidae	Alexander's rhyacophilan caddisfly	MT.
2	U	R1	*Rhyacophila colonus*	Rhyacophilidae	Obrien rhyacophilan caddisfly	OR.
3C		R1	*Rhyacophila fenderi*	Rhyacophilidae	Fender's rhyacophilan caddisfly	OR.
2	U	R1	*Rhyacophila haddocki*	Rhyacophilidae	Haddock's rhyacophilan caddisfly	OR.
2	U	R1	*Rhyacophila lineata*	Rhyacophilidae	Castle Crags rhyacophilan caddisfly	CA.
2	U	R1	*Rhyacophila mosana*	Rhyacophilidae	Bilobed rhyacophilan caddisfly	CA.
2	U	R1	*Rhyacophila spinata*	Rhyacophilidae	Spiny rhyacophilan caddisfly	CA.
2	U	R1	*Rhyacophila unipunctata*	Rhyacophilidae	One-spot rhyacophilan caddisfly	OR.
2	U	R4	*Setodes epicampes*	Leptoceridae	(Caddisfly, no common name)	AL, TN.
2	U	R4	*Stactiobiella cahaba*	Hydroptilidae	(Caddisfly, no common name)	AL.
2	U	R4	*Theliopsyche tallapoosa*	Lepidostomatidae	(Caddisfly, no common name)	AL.
2	U	R1	*Tinodes siskiyou*	Psychomyiidae	Siskiyou caddisfly	OR.
2*	U	R2	*Triaenodes tridonta*	Leptoceridae	Three-tooth long-horned caddisfly	OK*, FL*.
2	U	R4	*Wormaldia oconee*	Philoptamidae	(Caddisfly, no common name)	SC.
			ANTS, BEES, & WASPS (INSECTS, ORDER HYMENOPTERA).			
2	U	R1	*Bombus franklini*	Apidae	Franklin's bumblebee	OR, CA.
2	U	R1	*Deinomimesa hawaiiensis*	Sphecidae	Hawaiian deinomimesan sphecid wasp	HI.
2	U	R1	*Deinomimesa punae*	Sphecidae	Puna deinomimesan sphecid wasp	HI.
2	U	R1	*Ectemnius bidecoratus (=Nesocrabo b.)*	Sphecidae	Bidecoratus sphecid wasp	HI.
2	U	R1	*Ectemnius curtipes (=Oreocrabro c.)*	Sphecidae	Short-foot ectemnius sphecid wasp	HI.
2	U	R1	*Ectemnius fulvicrus (=Oreocrabro f.)*	Sphecidae	Brown cross ectemnius sphecid wasp	HI.
2	U	R1	*Ectemnius giffardi (=Nesocrabo g.)*	Sphecidae	Giffard's ectemnius sphecid wasp	HI.
2	U	R1	*Ectemnius haleakalae (=Oreocrabro h.)*	Sphecidae	Haleakala ectemnius sphecid wasp	HI.
2	U	R1	*Eucerceris ruficeps*	Sphecidae	Redheaded sphecid wasp	CA*, NV.
2	U	R1	*Eupelmus nihoaensis*	Eupelmidae	Nihoa eupelmus wasp	HI.
2	U	R1	*Myrmosula pacifica (=Myrmosa p.)*	Mutillidae	Antioch mutillid wasp	CA.
2	U	R1	*Nesomimesa kauaiensis*	Sphecidae	Kauai nesomimesan sphecid wasp	HI.
2	U	R1	*Nesomimesa perkinsi*	Sphecidae	Perkins' nesomimesan sphecid wasp	HI.
2	U	R1	*Nesomimesa sciopteryx*	Sphecidae	Shade-winged nesomimesan sphecid wasp.	HI.
2*	U	R1	*Nesoprosopis andrenoides*	Hylaeidae	Andrenoid yellow-faced bee	HI*.
2	U	R1	*Nesoprosopis anomala*	Hylaeidae	Anomalous yellow-faced bee	HI.
2*	U	R1	*Nesoprosopis anthricina*	Hylaeidae	Anthricinan yellow-faced bee	HI*.
2*	U	R1	*Nesoprosopis assimulans*	Hylaeidae	Assimulans yellow-faced bee	HI*.
2*	U	R1	*Nesoprosopis caeruleipennis*	Hylaeidae	Bluewing yellow-faced bee	HI*.
2*	U	R1	*Nesoprosopis chlorosticata*	Hylaeidae	Chlorostictan yellow-faced bee	HI*.
2*	U	R1	*Nesoprosopis comes*	Hylaeidae	Comes yellow-faced bee	HI*.
2*	U	R1	*Nesoprosopis coniceps*	Hylaeidae	Conehead yellow-faced bee	HI*.
2*	U	R1	*Nesoprosopis crabronoides*	Hylaeidae	Crabronoid yellow-faced bee	HI*.
2*	U	R1	*Nesoprosopis difficilis*	Hylaeidae	Difficult yellow-faced bee	HI*.
2*	U	R1	*Nesoprosopis dimidiata*	Hylaeidae	Dimidiatan yellow-faced bee	HI*.
2*	U	R1	*Nesoprosopis facilis*	Hylaeidae	Easy yellow-faced bee	HI*.
2*	U	R1	*Nesoprosopis filicum*	Hylaeidae	Fern yellow-faced bee	HI*.

Status		Lead Region	Scientific name	Family	Common name	Historic range
Category	Trend					
2	U	R1	*Nesoprosopis flavifrons*	Hylaeidae	Very yellow-faced bee	HI.
2*	U	R1	*Nesoprosopis flavipes*	Hylaeidae	Yellow-foot yellow-faced bee	HI*.
2	U	R1	*Nesoprosopis fuscipennis*	Hylaeidae	Darkwing yellow-faced bee	HI.
2*	U	R1	*Nesoprosopis haleakalae*	Hylaeidae	Haleakala yellow-faced bee	HI.
2*	U	R1	*Nesoprosopis hirsutula*	Hylaeidae	Hirsute yellow-faced bee	HI*.
2*	U	R1	*Nesoprosopis hostilis*	Hylaeidae	Hostile yellow-faced bee	HI*.
2*	U	R1	*Nesoprosopis hula*	Hylaeidae	Hulan yellow-faced bee	HI*.
2*	U	R1	*Nesoprosopis insignis*	Hylaeidae	Insignis yellow-faced bee	HI*.
2*	U	R1	*Nesoprosopis kauaiensis*	Hylaeidae	Kauai yellow-faced bee	HI*.
2*	U	R1	*Nesoprosopis koae*	Hylaeidae	Koa yellow-faced bee	HI*.
2*	U	R1	*Nesoprosopis kona*	Hylaeidae	Kona yellow-faced bee	HI*.
2*	U	R1	*Nesoprosopis laeta*	Hylaeidae	Laetan yellow-faced bee	HI*.
2*	U	R1	*Nesoprosopis longiceps*	Hylaeidae	Longhead yellow-faced bee	HI*.
3A		R1	*Nesoprosopis melanothrix*	Hylaeidae	Melanothrix yellow-faced bee	HI*.
3A		R1	*Nesoprosopis neglecta*	Hylaeidae	Molokai yellow-faced bee	HI*.
2*	U	R1	*Nesoprosopis obscurata*	Hylaeidae	Obscuratan yellow-faced bee	HI*.
2*	U	R1	*Nesoprosopis ombrias*	Hylaeidae	Ombrias yellow-faced bee	HI*.
2	U	R1	*Nesoprosopis perkinsiana*	Hylaeidae	Perkin's yellow-faced bee	HI.
3A		R1	*Nesoprosopis psammobia*	Hylaeidae	Psammobian yellow-faced bee	HI*.
2*	U	R1	*Nesoprosopis pubescens*	Hylaeidae	Furry yellow-faced bee	HI*.
2*	U	R1	*Nesoprosopis rubrocaudatus*	Hylaeidae	Redtail yellow-faced bee	HI*.
2*	U	R1	*Nesoprosopis satellus*	Hylaeidae	Satellus yellow-faced bee	HI*.
2*	U	R1	*Nesoprosopis simplex*	Hylaeidae	Simple yellow-faced bee	HI*.
2*	U	R1	*Nesoprosopis specularis*	Hylaeidae	Specular yellow-faced bee	HI*.
2*	U	R1	*Nesoprosopis sphecodoides*	Hylaeidae	Sphecodoid yellow-faced bee	HI*.
2*	U	R1	*Nesoprosopis unica*	Hylaeidae	Unique yellow-faced bee	HI*.
2*	U	R1	*Nesoprosopis vicina*	Hylaeidae	Vicinan yellow-faced bee	HI*.
2*	U	R1	*Nesoprosopis volatilis*	Hylaeidae	Volatile yellow-faced bee	HI*.
2	U	R1	*Odynerus niihauensis*	Vespidae	Niihau odynerus vespid wasp	HI.
2	U	R1	*Odynerus soror*	Vespidae	Soror odynerus vespid wasp	HI.
2*	U	R1	*Perdita hirticeps luteocincta*	Andrenidae	Yellow-banded andrenid bee	CA*.
2	U	R1	*Perdita scitula antiochensis*	Andrenidae	Antioch andrenid bee	CA.
2*	U	R1	*Philanthus nasalis*	Sphecidae	Antioch sphecid wasp	CA*.
2	U	R1	*Proceratium californicum*	Formicidae	Valley oak ant	CA.
2	U	R1	*Sclerodermus nihoaensis*	Bethylidae	Nihoa sclerodermus wasp	HI.
2	U	R1	*Smithistruma reliquia*	Formicidae	Ancient ant	CA.
			ARACHNIDS (CLASS ARACHNIDA)			
			SPIDERS (ARACHNIDS, ORDER ARANEA).			
2	U	R1	*Adelocosa anops*	Lycosidae	Kauai cave wolf spider (pe'e pe'e maka 'ole).	HI.
2	U	R4	*Cesonia irvingi*	Gnaphosidae	Key gnaphosid spider	FL.
2	U	R4	*Cyclocosmia torreya*	Ctenizidae	Torreya trap-door spider	FL.
2	U	R5	*Islandiana speophila*	Lymphiidae	Cavern sheet-web spider	WV.
2	U	R1	*Meta dolloff*	Araneidae	Dolloff Cave spider	CA.
2	U	R4	*Nesticus cooperi*	Nesticidae	Lost Nantahala Cave spider	NC.
2	U	R4	*Nesticus dilutus*	Nesticidae	Grassy Creek Cave spider	TN.
2	U	R4	*Nesticus furtivus*	Nesticidae	Crystal Caverns cave spider	TN.
2	U	R4	*Nesticus jonesi*	Nesticidae	Cave Spring Cave spider	AL.
2	U	R4	*Nesticus valentinei*	Nesticidae	Valentine's cave spider	TN.
2	U	R4	*Sosippus placidus*	Lycosidae	Lake Placid funnel wolf spider	FL.
2	U	R1	*Telema* sp.	Telemidae	Santa Cruz telemid spider	CA.
			PSEUDOSCORPIONS (ARACHNIDS, ORDER PSEUDOSCORPIONES).			
2	U	R1	*Aphrastochthonius grubbsi*	Chthoniidae	Grubbs' cave pseudoscorpion	CA.
2	U	R1	*Aphrastochthonius similis*	Chthoniidae	Carlow's Cave pseudoscorpion	CA.
2	U	R1	*Apochthonius malheuri*	Chthoniidae	Malheur pseudoscorpion	OR.
2	U	R5	*Apochthonius paucispinosus*	Chthoniidae	Dry Fork Valley cave pseudoscorpion	WV.
2	U	R1	*Archeolarca aalbui*	Garypidae	Aalbu's cave pseudoscorpion	CA.
2	U	R2	*Archeolarca cavicola*	Garypidae	Grand Canyon cave pseudoscorpion	AZ.
2	U	R2	*Archeolarca guadalupensis*	Garypidae	Guadalupe cave pseudoscorpion	TX.
2	U	R5	*Chitrella regina*	Syarinidae	Royal syarinid pseudoscorpion	WV.
2	U	R5	*Kleptochthonius henroti*	Chthoniidae	Greenbrier Valley cave pseudoscorpion	WV.
2	U	R5	*Kleptochthonius hetricki*	Chthoniidae	Organ Cave pseudoscorpion	WV.
2	U	R5	*Kleptochthonius orpheus*	Chthoniidae	Orpheus cave pseudoscorpion	WV.
2	U	R5	*Kleptochthonius proserpinae*	Chthoniidae	Proserpina cave pseudoscorpion	WV.
2	U	R1	*Larca laceyi*	Garypidae	Lacey's cave pseudoscorpion	CA.
2	U	R1	*Microcreagris imperialis*	Neobisiidae	Empire Cave pseudoscorpion	CA.
2	U	R1	*Pauroctonus maritimus*	Vejovidae	Monterey Dunes scorpion	CA.
2	U	R1	*Pseudogarypus orpheus*	Pseudogarypidae	Music Hall Cave pseudoscorpion	CA.
			HARVESTMEN (ARACHNIDS, ORDER OPILIONES).			
2	U	R1	*Calcina* (=*Sitalcina*) *minor*	Phalangodidae	Edgewood blind harvestman	CA.
2	U	R1	*Microcina edgewoodensis*	Phalangodidae	Edgewood Park micro-blind harvestman	CA.

Status		Lead Region	Scientific name	Family	Common name	Historic range
Category	Trend					
2	U	R1	*Microcina homi*	Phalangodidae	Hom's micro-blind harvestman	CA.
2	U	R1	*Microcina jungi*	Phalangodidae	Jung's micro-blind harvestman	CA.
2	U	R1	*Microcina leei*	Phalangodidae	Lee's micro-blind harvestman	CA.
2	U	R1	*Microcina lumi*	Phalangodidae	Lum's micro-blind harvestman	CA.
2	U	R1	*Microcina tiburona*	Phalangodidae	Tiburon micro-blind harvestman	CA.
			CRUSTACEANS (CLASS CRUSTACEA).			
			FAIRY SHRIMPS (CRUSTACEANS, ORDER ANOSTRACA).			
1	D	R1	*Artemia monica*	Artemiidae	Mono Lake brine shrimp	CA.
1	U	R1	*Branchinecta conservatio*	Branchinectidae	Conservancy fairy shrimp	CA.
1	U	R1	*Branchinecta longiantenna*	Branchinectidae	Longhorn fairy shrimp	CA.
1	D	R1	*Branchinecta lynchi*	Branchinectidae	Vernal pool fairy shrimp	CA.
1	D	R1	*Linderiella occidentalis*	Linderiellidae	California linderiella	CA.
PE	D	R1	*Streptocephalus woottoni*	Streptocephalidae	Riverside fairy shrimp	CA.
			OSTRACODS (CRUSTACEANS, ORDER PODOCOPA).			
2	U	R4	*Dactylocythere isabelae*	Entocytheridae	(Ostracod, no common name)	NC.
2	U	R4	*Dactylocythere peedeensis*	Entocytheridae	(Ostracod, no common name)	NC.
2	U	R4	*Waltoncythere acuta*	Entocytheridae	(Ostracod, no common name)	NC.
			ISOPODS (CRUSTACEANS, ORDER ISOPODA).			
2	U	R4	*Caecidotea barri*	Asellidae	Clifton Cave isopod	KY.
2	U	R5	*Caecidotea cannulus*	Asellidae	(Isopod, no common name)	WV.
2	U	R3	*Caecidotea filicispeluncae*	Asellidae	(Isopod, no common name)	OH.
2	U	R5	*Caecidotea franzi*	Asellidae	Franz's isopod	MD.
2	U	R2	*Caecidotea macropoda*	Asellidae	Bat Cave isopod	OK.
2	U	R4	*Caecidotea nickajackensis*	Asellidae	Nickajack Cave isopod	TN.
2	U	R5	*Caecidotea simonini*	Asellidae	(Isopod, no common name)	WV.
2	U	R5	*Caecidotea sinuncus*	Asellidae	(Isopod, no common name)	WV.
2	U	R1	*Caecidotea tomalensis*	Asellidae	(Isopod, no common name)	CA.
2	U	R5	*Lirceus culveri*	Asellidae	Rye Cove Cave isopod	VA.
PE	D	R5	*Lirceus usdagulun*	Asellidae	Lee County Cave isopod	VA.
			AMPHIPODS (CRUSTACEANS, ORDER AMPHIPODA).			
2	U	R3	*Allocrangonyx hubrichti*	Gammaridae	Central Missouri cave amphipod	MO.
2	U	R2	*Allocrangonyx pellucidus*	Gammaridae	Oklahoma cave amphipod	OK.
2	U	R5	*Crangonyx dearolfi*	Crangonyctidae	Dearolf's (=Pennsylvania) cave amphipod.	MD, PA.
2	U	R4	*Crangonyx grandimanus*	Crangonyctidae	Florida cave amphipod	FL.
2	U	R4	*Crangonyx hobbsi*	Crangonyctidae	Hobb's cave amphipod	FL.
1	D	R3	*Gammarus acherondytes*	Gammaridae	Illinois cave amphipod	IL.
2	U	R4	*Gammarus bousfieldi*	Gammaridae	Bousfield's amphipod	KY.
2	U	R2	*Gammarus desperatus*	Gammaridae	Noel's amphipod	NM.
2	U	R2	*Gammarus hyalleloides*	Gammaridae	Diminutive amphipod	TX.
2	U	R2	*Gammarus pecos*	Gammaridae	Pecos amphipod	TX.
2	U	R1	*Metabetaeus lohena*	Alpheidae	(Amphipod, no common name)	HI.
2	U	R1	*Spelaeorchestia koloana*	Talitridae	Kauai cave amphipod	HI.
2	U	R5	*Stygobromus araeus* (=*Apocrangonyx a.*).	Crangonyctidae	*Tidewater interstitial amphipod	VA.
2	U	R2	*Stygobromus arizonensis* (=*Stygonectes a.*).	Crangonyctidae	Arizona cave amphipod	AZ.
2	U	R2	*Stygobromus balconis* (=*Stygonectes b.*)	Crangonyctidae	Balcones cave amphipod	TX.
2	U	R3	*Stygobromus barri* (=*Stygonectes b.*)	Crangonyctidae	Barr's cave amphipod	MO.
2	U	R2	*Stygobromus bifurcatus* (=*Stygonectes b.*).	Crangonyctidae	Bifurcated cave amphipod	TX.
2	U	R5	*Stygobromus biggersi*	Crangonyctidae	Bigger's amphipod	MD, PA, VA, WV.
2	U	R2	*Stygobromus bowmani* (=*Stygonectes b.*).	Crangonyctidae	Bowman's cave amphipod	OK.
2	U	R6	*Stygobromus clantoni* (=*Stygonectes c.*)	Crangonyctidae	Clanton's cave amphipod	KS, MO.
2	U	R5	*Stygobromus conradi* (=*Stygonectes c.*)	Crangonyctidae	Burnsville Cove cave amphipod	VA.
2	U	R5	*Stygobromus cooperi* (=*Stygonectes c.*)	Crangonyctidae	Cooper's cave amphipod	WV.
2	U	R5	*Stygobromus culveri*	Crangonyctidae	Culver's cave amphipod	WV.
2	U	R2	*Stygobromus dejectus* (=*Stygonectes d.*).	Crangonyctidae	Cascade Cave amphipod	TX.
2	U	R4	*Stygobromus elatus* (=*Stygonectes e.*)	Crangonyctidae	Elevated Spring amphipod	AR.
2	U	R2	*Stygobromus flagellatus* (=*Stygonectes f.*).	Crangonyctidae	Ezell's Cave amphipod	TX.
3C		R5	*Stygobromus franzi*	Crangonyctidae	Franz's amphipod	MD.
2	U	R1	*Stygobromus gradyi*	Crangonyctidae	Grady's cave amphipod	CA.
2	U	R2	*Stygobromus hadenoecus* (=*Stygonectes h.*).	Crangonyctidae	Devil's Sinkhole amphipod	TX.
2	U	R1	*Stygobromus harai*	Crangonyctidae	Hara's cave amphipod	CA.

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Category	Trend					
3A		R3	*Stygobromus heteropodus*	Crangonyctidae	Pickle Springs amphipod	MO.
2	U	R1	*Stygobromus hubbsi*	Crangonyctidae	Malheur Cave amphipod	OR.
2	U	R5	*Stygobromus indentatus* (=*Stygonectes i.*).	Crangonyctidae	Tidewater amphipod	VA.
2	U	R2	*Stygobromus longipes* (=*Stygonectes l.*)	Crangonyctidae	Long-legged cave amphipod	TX.
2	U	R1	*Stygobromus mackenziei*	Crangonyctidae	MacKenzie's cave amphipod	CA.
2	U	R4	*Stygobromus montanus* (=*Stygonectes m.*).	Crangonyctidae	Mountain cave amphipod	AR.
2	U	R5	*Stygobromus morrisoni* (=*Stygonectes m.*).	Crangonyctidae	Morrison's cave amphipod	VA, WV.
2	U	R5	*Stygobromus mundus* (=*Stygonectes m.*).	Crangonyctidae	Bath County cave amphipod	VA.
2	U	R5	*Stygobromus nanus*	Crangonyctidae	Pocahontas cave amphipod	WV.
2	U	R4	*Stygobromus nortoni* (=*Apocrangonyx n.*).	Crangonyctidae	Norton's cave amphipod	TN.
3C		R3	*Stygobromus onondagaensis*	Crangonyctidae	Onondaga Cave amphipod	MO.
3C		R3	*Stygobromus ozarkensis* (=*Stygonectes o.*).	Crangonyctidae	Ozark cave amphipod	AR, MO, OK.
2	U	R5	*Stygobromus parvus* (=*Apocrangonyx p.*).	Crangonyctidae	Minute cave amphipod	WV.
2	U	R2	*Stygobromus pecki* (=*Stygonectes p.*)	Crangonyctidae	Peck's cave amphipod	TX.
2	U	R5	*Stygobromus pizzinii* (=*Stygonectes p.*)	Crangonyctidae	Pizzini's amphipod	DC, MD, PA, VA.
2	U	R3	*Stygobromus putealis*	Crangonyctidae	Wisconsin well amphipod	WI.
2	U	R5	*Stygobromus redactus*	Crangonyctidae	Redacted cave amphipod	WV.
2	U	R2	*Stygobromus redelli* (=*Stygonectes r.*)	Crangonyctidae	Redell's cave amphipod	TX.
2	U	R4	*Stygobromus smithi*	Crangonyctidae	Alabama well amphipod	AL.
2	U	R5	*Stygobromus spinatus* (=*Stygonectes s.*)	Crangonyctidae	Spring cave amphipod	WV.
2	U	R5	*Stygobromus stellmacki* (=*Stygonectes s.*).	Crangonyctidae	Stellmack's cave amphipod	PA.
2	U	R3	*Stygobromus subtilis* (=*Apocrangonyx s.*).	Crangonyctidae	Subtle cave amphipod	IL, MO.
2	U	R1	*Stygobromus wengerorum*	Crangonyctidae	Wengerors' cave amphipod	CA.
			CRAYFISHES & SHRIMPS (CRUSTACEANS, ORDER DECAPODA).			
2	U	R1	*Antecaridina lauensis*	Atyidae	(Shrimp, no common name)	HI.
2	U	R1	*Calliasmata pholidota*	Hippolytidae	(Shrimp, no common name)	HI.
3C		R4	*Cambarus batchi*	Cambaridae	(Crayfish, no common name)	KY.
2	U	R4	*Cambarus catagius*	Cambaridae	Greensboro burrowing crayfish	NC.
3C		R5	*Cambarus chasmodactylus*	Cambaridae	New River riffle crayfish	NC, VA, WV.
2	U	R4	*Cambarus englishi*	Cambaridae	(Crayfish, no common name)	AL.
2	U	R4	*Cambarus extraneus*	Cambaridae	Chickamauga crayfish	GA, TN.
2	U	R4	*Cambarus georgiae* (*Puncticambarus*)	Cambaridae	Little Tennessee crayfish	NC, GA.
2	U	R4	*Cambarus hiwassensis* (*Puncticambarus*)	Cambaridae	Hiwassee crayfish	NC, GA.
2	U	R4	*Cambarus miltus*	Cambaridae	(Crayfish, no common name)	AL.
2	U	R4	*Cambarus obeyensis*	Cambaridae	Obey crayfish	TN.
2	U	R4	*Cambarus parrishi* (*Puncticambarus*)	Cambaridae	Parrish crayfish	NC, GA.
2	U	R4	*Cambarus reburrus* (*Puncticambarus*)	Cambaridae	French Broad crayfish	NC.
3C		R4	*Cambarus spicatus*	Cambaridae	Little River crayfish	SC.
2	U	R2	*Cambarus tartarus*	Cambaridae	(Crayfish, no common name)	OK.
2	U	R5	*Cambarus veteranus*	Cambaridae	(Crayfish, no common name)	VA, WV, KY.
2	D	R4	*Distocambarus youngineri*	Cambaridae	Saluda crayfish	SC.
2	U	R4	*Fallicambarus burrisi*	Cambaridae	(Crayfish, no common name)	AL, MS.
2	U	R4	*Fallicambarus danielae*	Cambaridae	(Crayfish, no common name)	MS, AL.
2	U	R4	*Fallicambarus gilpini*	Cambaridae	(Crayfish, no common name)	AR.
2	U	R4	*Fallicambarus gordoni*	Cambaridae	(Crayfish, no common name)	MS.
2	U	R4	*Fallicambarus harpi*	Cambaridae	(Crayfish, no common name)	AR.
2	U	R4	*Fallicambarus jeanae*	Cambaridae	(Crayfish, no common name)	AR.
2	U	R4	*Fallicambarus petilicarpus*	Cambaridae	(Crayfish, no common name)	AR.
2	U	R1	*Halocaridina palahemo*	Atyidae	(Shrimp, no common name)	HI.
2	U	R4	*Hobbseus orconectoides*	Cambaridae	Oktibbeha rivulet crayfish	MS.
2	U	R4	*Orconectes* sp.	Cambaridae	Shelta Cave crayfish	AL.
2	D	R3	*Orconectes indianensis*	Cambaridae	Indiana crayfish	IL, IN.
2	U	R4	*Orconectes jeffersoni*	Cambaridae	Louisville crayfish	KY.
2	U	R4	*Orconectes virginiensis* (*Crockerinus*)	Cambaridae	Chowanoke crayfish	NC, VA.
2	U	R4	*Orconectes williamsi*	Camabaridae	(Crayfish, no common name)	AL.
2	U	R1	*Palaemonella burnsi*	Palaemonidae	(Shrimp, no common name)	HI.
2	U	R2	*Palaemonetes antrorum*	Palaemonidae	Texas cave shrimp	TX.
2	U	R4	*Procambarus acherontis*	Cambaridae	Palm Springs Cave crayfish	FL.
2	S	R4	*Procambarus barbiger*	Cambaridae	Jackson Prairie crayfish	MS.
2	U	R4	*Procambarus cometes*	Cambaridae	Mississippi flatwoods crayfish	MS.
2	U	R4	*Procambarus connus*	Cambaridae	Carrollton crayfish	MS.
3C		R4	*Procambarus echinatus*	Cambaridae	Edisto crayfish	SC.
2	U	R4	*Procambarus ferrugineus*	Cambaridae	(Crayfish, no common name)	AR.
2	U	R4	*Procambarus fitzpatricki*	Cambaridae	Spinytail crayfish	MS.
2	U	R4	*Procambarus lagniappe*	Cambaridae	(Crayfish, no common name)	MS.
2	U	R4	*Procambarus lepidodactylus*	Cambaridae	Pee Dee lotic crayfish	NC, SC.
3C		R4	*Procambarus liberorum*	Cambaridae	(Crayfish, no common name)	MS.
2	U	R4	*Procambarus lylei*	Cambaridae	Shutispear crayfish	MS.

Status		Lead Region	Scientific name	Family	Common name	Historic range
Category	Trend					
2	U	R4	*Procambarus medialis (Ortmannicus)*	Cambaridae	Albermarle crayfish	NC.
2	D	R4	*Procambarus pictus*	Cambaridae	Black Creek crayfish	FL.
2	U	R4	*Procambarus plumimanus (Ortmannicus)*	Cambaridae	Croatan crayfish	NC.
2	U	R4	*Procambarus pogum*	Cambaridae	Bearded red crayfish	MS.
2	U	R1	*Procaris hawaiana*	Procarididae	(Shrimp, no common name)	HI.
2	U	R4	*Typhlatya monae*	Atyidae	Mona cave shrimp	PR, West Indies.
2	U	R1	*Vetericaris chaceorum*	Procaridae	(Shrimp, no common name)	HI.
			EARTHWORMS (ANNELIDS, CLASS OLIGOCHAETA).			
2	U	R1	*Megascolides macelfreshi*	Megascolecidae	Oregon giant earthworm	OR.
			FLATWORMS (TURBELLARIA)			
2	U	R3	*Kenkia glandulosa (=Macrocotyla g.)*	Kenkiidae	(Planarian, no common name)	MO, IA.
2	U	R1	*Kenkia rhynchida*	Kenkiidae	(Planarian, no common name)	OR.
2	U	R5	*Procotyla typhlops*	Kenkiidae	(Planarian, no common name)	MD, VA.
2	U	R5	*Sphalloplana culveri*	Kenkiidae	Culver's planarian	WV.
2	U	R5	*Sphalloplana pricei*	Kenkiidae	Refton Cave planarian	PA.
2	U	R5	*Sphalloplana virginiana*	Kenkiidae	(Planarian, no common name)	VA.
			HYDROIDS (CNIDARIA)			
2	U	R1	*Ostromouvia horii*		(No common name)	HI.
			SPONGES (PORIFERA)			
2	U	R4	*Corvomeyenia carolinensis*	Spongillidae	Carolina sponge	SC.
2	U	R4	*Dosilia palmeri*	Spongillidae	Oklawaha sponge	FL, Mexico.
2	U	R4	*Ephydatia subtilis*	Spongillidae	Kissimmee sponge	FL.
2	U	R5	*Heteromeyenia longistylis*	Spongillidae	Pennsylvania sponge	PA.
2	U	R5	*Spongilla heteroslerita*	Spongillidae	Oneida sponge	NY.

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federal register

Thursday
November 21, 1991

Part IX

The President

Presidential Determination No. 92-5—Determination To Authorize the Furnishing of Goods and Services to Senegal

Federal Register

Thursday
November 21, 1991

Part IX

The President

Presidential Determination No. 92-5—
Determination To Authorize the
Furnishing of Goods and Services to
Senegal

Federal Register
Vol. 56, No. 225
Thursday, November 21, 1991

Presidential Documents

Title 3—

The President

Presidential Determination No. 92–5 of November 13, 1991

Determination To Authorize the Furnishing of Goods and Services to Senegal

Memorandum for the Secretary of State [and] the Secretary of Defense

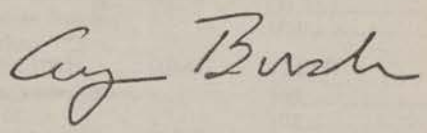
Pursuant to the authority vested in me by section 552(c)(2) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2348a(c)(2), (the "Act"), I hereby determine that:

(1) as a result of an unforeseen emergency, the provision of assistance under Chapter 6 of Part II of the Act in amounts in excess of funds otherwise available for such assistance is important to the national interest of the United States; and

(2) such unforeseen emergency requires the immediate provision of assistance under Chapter 6 of Part II of the Act.

I therefore direct the drawdown of commodities and services from the inventory and resources of the Department of Defense of an aggregate value not to exceed $10 million to support Senegal's deployment of peacekeeping forces to Liberia.

The Secretary of State is authorized and directed to report this determination to the Congress and to publish it in the **Federal Register.**



THE WHITE HOUSE,
Washington, November 13, 1991.

[FR Doc. 91–28234
Filed 11–20–91; 11:07 am]
Billing code 3195–01–M

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Thursday, November 21, 1991

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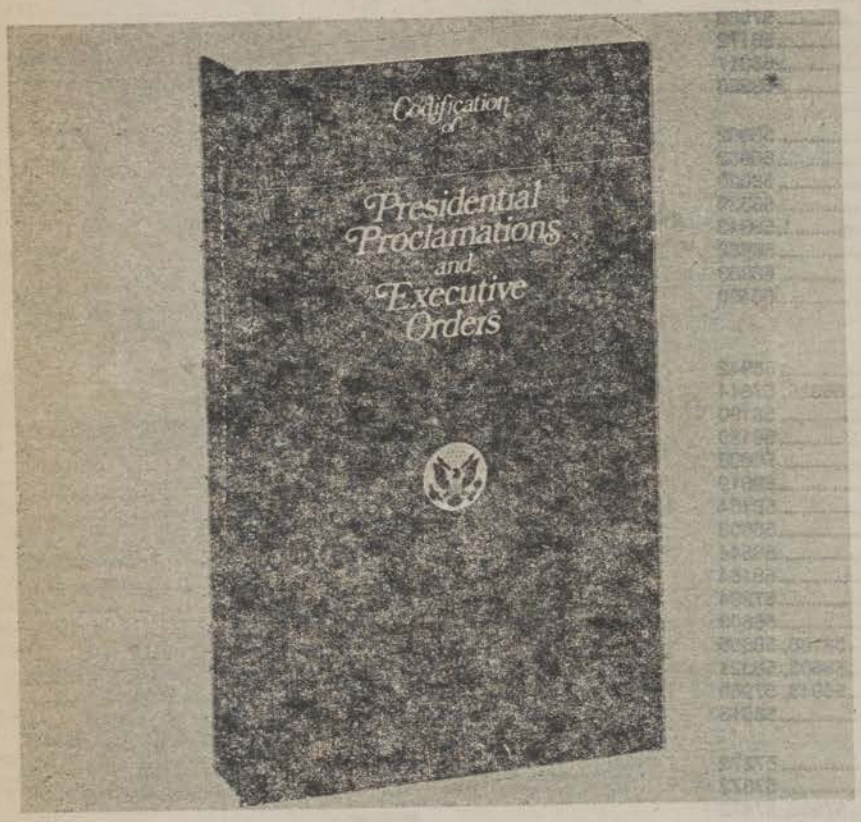

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