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Monday
April 20, 1992

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Briefing on How To Use the Federal Register
For information on the briefing in St. Louis, MO, see announcement on the inside cover of this issue.

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WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

ST. LOUIS, MO

WHEN: April 23; at 9:00 a.m.
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CFR PARTS AFFECTED IN THIS ISSUE

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

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Presidential Documents

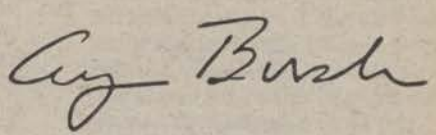
Title 3—

The President

Executive Order 12802 of April 16, 1992

Waiver Under the Trade Act of 1974 With Respect to the Republic of Byelarus, the Republic of Kyrgyzstan, and the Russian Federation

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 402(c)(2) of the Trade Act of 1974, as amended ("Act") (19 U.S.C. 2432(c)(2)), which continues to apply to the Republic of Byelarus, the Republic of Kyrgyzstan, and the Russian Federation pursuant to section 402(d) of the Act, and having made the report to the Congress required by section 402(c)(2) of the Act, I hereby waive the application of sections 402(a) and 402(b) of the Act with respect to the Republic of Byelarus, the Republic of Kyrgyzstan, and the Russian Federation.



THE WHITE HOUSE,
April 16, 1992.

[FR Doc. 92-9279
Filed 4-16-92; 2:52 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

RIN 3206-AE68

Federal Employees Health Benefits Program: Letter of Credit Provisions

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations that reflect a revised system of making recurring premium payments to experience-rated Federal Employees Health Benefits (FEHB) Program carriers on a letter of credit (LOC) basis; implement section 7002(b) of Public Law 101-508, the Omnibus Budget Reconciliation Act of 1990 which specifies that, to the maximum extent practicable, payments to FEHB plans participating in an LOC arrangement shall be made on a checks-presented basis; relocate the regulations on minimum standards for health benefit carriers at 5 CFR 890.202 to the Contractor Qualifications section at 48 CFR 1609.70; and relocate the regulations on recurring premium payments to carriers at 5 CFR 890.505 to the Contract Financing section at 48 CFR 1632.170.

DATES: Interim rule effective May 20, 1992. Comments must be received on or before June 19, 1992.

ADDRESSES: Written comments may be sent to Andrea S. Minniear, Assistant Director for Retirement and Insurance Policy, Retirement and Insurance Group, Office of Personnel Management, P.O. Box 57, Washington, DC 20044, or delivered to OPM, room 4351, 1900 E Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Abby L. Block, (202) 606-0191.

SUPPLEMENTARY INFORMATION: On September 6, 1988, OPM published interim regulations in the **Federal Register** (53 FR 34305 and 53 FR 34320) and on December 23, 1988, final regulations in the **Federal Register** (53 FR 51741 and 53 FR 51781) that required the use of letter of credit (LOC) arrangements for Federal Employees Health Benefits (FEHB) Program payments to certain experience-rated carriers.

When the LOC arrangements were first established, payments from the LOC accounts to the carriers were made through a Department of the Treasury system, the Treasury Financial Communications System—Letter of Credit (TFCS-LOC). The TFCS-LOC was phased out by Treasury and replaced for the FEHB Program in early 1991 with a system developed by OPM and operated according to guidelines issued by OPM.

On November 5, 1990, Public Law 101-508 was enacted. Section 7002(b) of Public Law 101-508, requires that payments from the Employees Health Benefits Fund to a plan participating in an LOC arrangement shall be made, to the maximum extent practicable, on a checks-presented basis.

This new payment requirement became effective for contract years beginning on or after January 1, 1991. Currently, OPM regulations allow payments form LOC accounts to be made on a checks-presented basis (formerly called the checks paid technique but now called checks-presented to conform with the designation in the law; the two terms have an identical meaning), the delay of drawdown technique, or both.

This interim regulation amends the section of the FEHB regulations defining letter of credit arrangements to state that the definition is located in 48 CFR 1602.170-9. In the accompanying regulation amending title 48 of the CFR the definition is amended to remove the citation of Department of the Treasury regulations because the Department of the Treasury no longer processes LOC transactions. LOC accounts for the FEHB Program are now administered through a system developed by OPM and operated according to guidelines issued by OPM.

This interim regulation amends the section of the FEHB regulations on reserves (§ 890.503) by:

- Making it clear that most reserves of experience-rated carriers are now held in the carriers' LOC accounts and not by the carriers;
- Incorporating LOC accounts into the procedures for transferring funds between the contingency reserve and carrier reserves; and
- Removing instructions for determining payments to and from the contingency reserve for an experience-rated carrier with more than 50 percent of its enrollees stationed outside the United States. These instructions are no longer utilized.

In addition, this interim regulation relocates two sections from title 5 of the Code of Federal Regulations (CFR) to title 48 chapter 16 of the CFR where they more appropriately belong. Section 890.202, the section on minimum standards for health benefits carriers is moved unchanged, except for adjustments in regulatory citations, to 48 CFR 1609.70. Section 890.505, the section on recurring premium payments to carriers, is removed from title 5 of the CFR and moved to 48 CFR 1632.170. In addition, this section is amended to:

- Remove the minimum amount of annual payments an experience-rated plan must receive in order to be paid on an LOC basis. Previously, in order to comply with Treasury regulations, only experience-rated plans that received a total of $120,000 or more during the contract year were paid on an LOC basis. Now, all experience-rated plans will receive payments on an LOC basis;
- Remove from regulation the reference to the ability of underwriters to make drawdowns from carriers' LOC accounts. OPM guidelines allow a carrier to delegate its authority to make drawdowns from its LOC account to the underwriter of its plan;
- Remove from regulation the limit on the number of drawdowns per day from an LOC account and the specifications regarding the time of day the requests for drawdowns must be presented to the Department of the Treasury. The limit on, and timing of, drawdowns now will be specified in guidelines issued by OPM;
- Remove OPM's authority to grant an exception to the effective date of the LOC payment arrangement because this authority is no longer necessary; and

• Implement section 7002(b) of Public Law 101–508 by providing that drawdowns from LOC accounts will be made, where practicable, on the "checks-presented" basis. OPM may waive the requirement that drawdowns be made on the checks-presented basis and allow the plan to adopt an alternative drawdowns methodology, subject to OPM approval. In order to receive a waiver, a carrier must demonstrate to OPM's satisfaction that the restriction of LOC disbursements to a checks-presented basis is clearly and significantly detrimental to the operation of the plan.

An interim regulation amending 48 CFR chapter 16 to conform to the LOC payment arrangement for FEHB Program contracts is published elsewhere in this issue of the **Federal Register**.

Waiver of Notice of Proposed Rulemaking

Pursuant to section 553(b)(3)(B) of title 5 of the U.S. Code, I find that good cause exists for waiving the general notice of proposed rulemaking. This notice is being waived because: (1) The change in LOC drawdowns cited in this regulation was contained in Public Law 101–508 and has been in effect since January 1, 1991; and (2) the revised LOC system cited in this regulation has been operating since early 1991. This regulation is effective 30 days after publication so that OPM regulations will conform with the current LOC system and the law as recently amended.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they primarily affect the administrative procedures used by OPM and FEHB plans.

List of Subjects in 5 CFR Part 890

Administrative practice and procedure, Government employees, Health facilities, Health insurance, Health professions, Hostages, Reporting and recordkeeping requirements, Retirement.

U.S. Office of Personnel Management.

Constance Berry Newsman,

Director.

Accordingly, OPM is amending 5 CFR Part 890 as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

1. The authority citation for part 890 is revised to read as follows:

Authority: 5 U.S.C. 8913; § 890.803 also issued under 50 U.S.C. 403p, 22 U.S.C. 4069c and 4069c–1; Subpart L also issued under sec. 599C of Pub. L. 101–513, 104 Stat. 2064.

2. In § 890.101, the definition for *letter of credit* in paragraph (a) is revised to read as follows:

§ 890.101 Definitions; time computations.

(a) * * *

Letter of credit is defined in 48 CFR 1602.170–9.

* * * * *

3. Section 890.202 is revised to read as follows:

§ 890.202 Minimum standards for health benefits carriers.

The minimum standards for health benefits carriers for the FEHB Program shall be those contained in 48 CFR subpart 1609.70.

§ 890.204 [Amended]

4. In § 890.204, paragraph (a) is amended by removing "§§ 890.201 and 890.202 of this part" and replacing it with "§ 890.201 of this part and 48 CFR subpart 1609.70".

5. In § 890.503:

a. Paragraph (c)(3) is revised;

b. Paragraph (c)(4) is removed;

c. Paragraph (c)(5) is redesignated as paragraph (c)(4);

d. Paragraph (c)(6) is redesignated as paragraph (c)(5) and amended by removing "(c)(5)" in the first sentence and replacing it with "(c)(4)", removing "(6)" in the fourth sentence and replacing it with "(5)", and adding a new sentence at the end of the paragraph as set out below:

§ 890.503 Reserves.

* * * * *

(c) * * *

(3) *OPM/carrier reserve transfers.* The target level for total reserves of an experience-rated plan is 3½ times an amount equal to the sum of an average month's paid claims plus an average month's administrative expenses and retentions. Reserves include funds set aside for incurred-but-unpaid benefit claims and the "special" reserve representing the cumulative difference between income to the plan (subscription income plus interest on investments) and plan expenses (benefit costs plus administrative expenses and retentions). Included as carrier reserves is the balance in the letter of credit (LOC) account maintained by OPM for the plan. For the purposes of this section, an average month's paid claims is one-sixth of the total claims paid during the last 6 months of the most recent contract period, and an average month's administrative expenses and retentions is one-twelfth of the administrative expenses and retentions for the most recent contract period.

(i) When, as of the end of a contract period, the total of all the reserves for an experience-rated plan is less than the target level described in the first four sentences of paragraph (c)(3) of this section, the carrier is entitled to payment from the contingency reserve. Such contingency reserve payment shall equal the lesser of: An amount equal to the difference between the target level for the plan's reserves and the total of the reserves for the plan, or an amount equal to the excess, if any, of the contingency reserve over the preferred minimum balance. OMP must authorize this payment promptly after accepting the accounting statement for the contract period. The contingency reserve payment so authorized will be made available to the carrier's LOC account.

(ii) When, as of the end of a contract period, the total of all reserves of an experience-rated plan amounts to more than the plan's target level, the excess over the plan's target level must be credited to the contingency reserve maintained by OPM for the plan. OPM will withdraw the excess amount from the plan's LOC account, based on reporting in the annual accounting statement for the year, no sooner than May 1, of the following year. If the accounting statement is not filed by the time limit specified in the plan's contract with OPM, OPM will estimate the amount of the excess reserves and may withdraw that amount from the plan's LOC account, or begin the process of offsetting that amount from subscription payments, no sooner than May 1. The amount withdrawn from the plan's LOC account, or offset from subscription payments, will be credited to that plan's contingency reserve.

* * * * *

(5) * * * For carriers funded by LOC, the returned amount will be withdrawn from the plan's LOC account.

6. Section 890.505 is revised to read as follows:

§ 890.505 Recurring premium payments to carriers.

The procedures for payment of premiums, contingency reserve, and interest distribution to FEHB Program carriers shall be those contained in 48 CFR subpart 1632.170.

§ 890.1208 [Amended]

7. In § 890.1208, paragraph (d) is amended by removing "§ 890.505" and replacing it with "48 CFR subpart 1632.170".

[FR Doc. 92-9033 Filed 4-17-92; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1413

1992 Feed Grain Program; Acreage Reduction

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: On July 15, 1991, the Commodity Credit Corporation (CCC) issued a proposed rule with respect to the 1992 Production Adjustment Program for Feed Grains, which is conducted by the CCC in accordance with the Agricultural Act of 1949 (1949 Act), as amended. The 1992 acreage reduction program (ARP) percentage for corn, grain sorghum, and barley has been determined to be 5 percent. The level for oats will be 9 percent, as required by statute. This rule amends the regulations at 7 CFR part 1413 to set forth the acreage reduction percentage for the 1992 crop of feed grains. This action is required by Section 105B of the 1949 Act.

EFFECTIVE DATE: April 17, 1992.

FOR FURTHER INFORMATION CONTACT: Philip W. Sronce, Division Director, Feed Grains Analysis Division, USDA/ASCS, room 3746-S, P.O. Box 2415, Washington, DC 20013 or call (202) 720-4418.

SUPPLEMENTARY INFORMATION: The Final Regulatory Impact Analysis describing the options considered in developing this rule and the impact of the implementation of each option is available on request from the above-named individual.

This final rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation 1512-1 and has been designated as "major." It has been determined that this program provision will result in an annual effect on the economy of $100 million or more.

The title and number of the Federal Assistance Program, as found in the catalog of Federal Domestic Assistance, to which this rule applies are Feed Grains Production Stabilization—10.055.

It has been determined that the Regulatory Flexibility Act is applicable to this final rule because the CCC is required by section 105B(o) of the 1949 Act to publish a notice of proposed rulemaking with respect to the subject matter of this rule. A Final Regulatory Flexibility Analysis for the 1992 Feed Grain ARP was prepared as part of the Final Regulatory Impact Analysis. Copies of this analysis are available from the above-named individual.

It has been determined by an environmental evaluation that this action will not have significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

This program/activity is not subject to the provisions of Executive Order 12372, which requires 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).

The amendments to 7 CFR part 1413 set forth in this final rule do not contain information collections that require clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35).

This final rule amends 7 CFR part 1413 to set forth the determination of the 1992 Production Adjustment Program for Feed Grains. General descriptions of the statutory basis for the determinations in this final rule were set forth at 56 FR 32132 (July 15, 1991).

The public was asked to comment on the five 1992 feed grain ARP options shown in Table 1:

TABLE 1.—1992 FEED GRAIN ARP OPTIONS

[In percent]

Crop	Option				
	1	2	3	4	5
Corn	7.5	5.0	7.5	10.0	12.5
Grain Sorghum	7.5	5.0	0.0	5.0	7.5
Barley	7.5	5.0	0.0	5.0	7.5
Oats	0.0	0.0	0.0	0.0	0.0

Comments received during the specified comment period are summarized as follows:

Seventy-six comments were received. Sixty-three of the respondents commented on the corn ARP, 28 of the respondents commented on the grain sorghum ARP, and 27 of the respondents commented on the barley ARP.

Seven corn respondents, 7 grain sorghum respondents, and 8 barley respondents favored a 0-percent ARP. Most of these respondents were grain merchandisers and their trade associations. A 0-percent ARP was not listed as a possible option for corn.

Seven corn respondents, 5 grain sorghum respondents, and 5 barley respondents favored a 5-percent ARP. Over half of these respondents were producers and producer organizations.

Nine corn respondents, 12 grain sorghum respondents, and 10 barley respondents favored a 7.5-percent ARP. These respondents were generally producers and producer organizations, ASC county committees, and bankers.

Forty corn respondents, 4 grain sorghum respondents, and 4 barley respondents favored an ARP greater than 7.5-percent. Almost all of these respondents were producers. Most of the corn respondents favored either a 10 or 12.5-percent ARP.

Four corn respondents, 2 grain sorghum respondents, and 2 barley respondents favored either a 15 or 20-percent ARP. All of these respondents were producers. Acreage Reduction Programs greater than 12.5-percent were not listed as possible options. There is no authority for such ARP's at present stocks-to-use levels.

Respondents favoring the lower ARP's noted that the U.S. needs to produce more to take advantage of export opportunities. These respondents emphasized that low 1991 corn yields will result in 1991/92 ending stocks at historically low levels. They also cited the income impact of reduced payment acres under flexibility provisions. Many confirmed USDA's analysis that lower ARP's result in higher producer incomes. Advocates for a 0-percent barley ARP indicated the need for adequate supplies to aggressively implement the Export Enhancement Program for barley.

Respondents favoring the higher ARP's noted that feed grain prices would be higher and Government costs would be lower with higher ARP levels. Many producers wanted higher ARP's indicating that it would increase prices and improve the profitability of their farms.

After considering these comments, the Secretary made an initial announcement on September 30, 1991, of an ARP of 5 percent for corn, grain sorghum, and barley and 0 percent for oats. The Secretary indicated that this announcement would be subject to change because of historically low world and U.S. 1991/92 ending stocks. The Secretary is authorized to make adjustments in the 1992 program no later than November 15.

On November 15, 1991, the Secretary announced that the ARP would not be changed from its initial announcement.

A change was not warranted because feed grain supplies had increased only 1 percent since September.

The Secretary determined that a 5-percent ARP would maintain U.S. competitiveness in world markets while balancing the risks of excessive supplies and possible shortages.

A 5-percent ARP also reflects the tightened U.S. supply situation and further emphasizes the desire of the U.S. to reduce its reliance on ARP's. It signals to competitors that the U.S. will not idle large amounts of acreage in order to support the world price level for feed grains, and also signals to domestic and foreign customers that the U.S. will be a reliable supplier.

Tables 2 through 4 show the estimated impacts of three different 1992 ARP options based on September, 1991 estimates, the month in which the 1992 ARP decision was made.

TABLE 2.—CORN SUPPLY AND DEMAND ESTIMATES

Item	1992 Program Options		
	1	2	3
	Percent		
ARP	5.0	0.0	7.5
Participation	75	87	70
	Million acres		
Planted acreage	78.5	81.0	77.5
	Million bushels		
Production	8,475	8,660	8,400
Domestic Use	6,335	6,390	6,305
Exports	1,725	1,750	1,715
Ending stocks 8/31	1,519	1,617	1,484
	Dollars per bushel		
Season average producer price	2.20	2.10	2.25
	Million dollars		
Deficiency payments	3,175	4,425	2,645
Net income to corn producers	10,497	11,002	10,335

TABLE 3.—GRAIN SORGHUM SUPPLY AND DEMAND ESTIMATES

Item	1992 Program Options		
	1	2	3
	Percent		
ARP	5.0	0.0	7.5
Participation	70	80	70
	Million acres		
Planted acreage	11.3	11.7	11.7

TABLE 3.—GRAIN SORGHUM SUPPLY AND DEMAND ESTIMATES—Continued

Item	1992 Program Options		
	1	2	3
	Million bushels		
Production	635	655	625
Domestic use	435	440	430
Exports	200	205	200
Ending stocks 8/31	110	120	105
	Dollars per bushel		
Season average producer price	2.05	1.95	2.10
	Million dollars		
Deficiency payments	263	353	235
Net income to corn producers	906	953	903

TABLE 4.—Barley Supply and Demand Estimates

Item	1992 Program Options		
	1	2	3
	Percent		
ARP	5.0	0.0	7.5
Participation	77	82	75
	Million acres		
Planted acreage	9.2	9.5	9.1
	Million bushels		
Production	455	465	450
Domestic Use	390	395	390
Exports	85	87	83
Ending stocks 5/31	139	142	136
	Dollars per bushel		
Season average producer price	1.97	2.05	2.09
	Million dollars		
Deficiency payments	140	182	121
Net income to corn producers	543	554	536

The announced corn ARP of 5 percent is 7.5 percentage points below the statutory maximum of 12.5 percent. The 1949 Act provides that an ARP of 0 to 12.5 percent may be implemented if the corn ending stocks-to-use (S/U) ratio for the previous marketing year is equal to or less than 25 percent. When the 1992 ARP was announced, the S/U for the 1991/92 marketing year was estimated to be 14.3 percent. In the case of grain sorghum and barley, the 1949 Act provides for ARP percentages from 0 to 20 percent. The minimum 7.5—percent ARP imposed by section 1104 of the Agricultural Reconciliation Act of 1990 does not apply because the 1991/92 S/U level is estimated to be below 20 percent, the level specified by that act to require the 7.5 percent minimum.

Acreage Reduction

In accordance with section 105B(e)(1) of the 1949 Act, the ARP has been established with respect to the 1992 crop of corn, grain sorghum, and barley at 5 percent and oats at 0 percent. Accordingly, producers will be required to reduce their 1992 acreage of corn, grain sorghum, and barley for harvest from the crop acreage base established for feed grains for a farm by at least this established percentage in order to be eligible for price support loans, purchase, and payments for the respective feed grains.

List of Subjects in 7 CFR Part 1413

Acreage allotments, Cotton, Disaster assistance, Feed grains, Price support programs, Reporting and recordkeeping requirements, Rice, Soil conservation, Wheat.

Accordingly, 7 CFR part 1413 is amended as follows:

PART 1413—FEED GRAIN, RICE, UPLAND AND EXTRA LONG STAPLE COTTON, WHEAT AND RELATED PROGRAMS

1. The authority citation for 7 CFR part 1413 continues to read as follows:

Authority: 7 U.S.C. 1308, 1308a, 1309, 1441–2, 1444–2, 1444f, 1445b–3a, 1461–1469; 15 U.S.C. 714b and 714c.

2. Section 1413.54(a)(2) is revised to read as follows:

§ 1413.54 Acreage reduction program provisions.

(a) * * *

(2)(i) 1991 corn, gain sorghum, and barley, 7.5 pecent; 1991 oats, 0 percent and

(ii) 1992 corn, grain sorghum, and barley, 5.0 pecent; 1992 oats, 0 percent;

* * * * *

Signed April 14, 1992 at Washington, DC.

John A. Stevenson,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 92–9081 Filed 4–17–92; 8:45 am]

BILLING CODE 3410–05–M

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7 CFR Parts 1413 and 1427

1992 Upland and Extra Long Staple Cotton Programs and Upland Cotton Marketing Certificate Provisions

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purposes of this final rule are to: (1) Amend the regulations at 7 CFR part 1413 to set forth the acreage reduction percentages for the 1992 crops of upland and extra long staple ("ELS") cotton; (2) amend the regulations at 7 CFR part 1427 to set forth the national average price support loan levels for the 1992 corps of upland and ELS cotton, implement the provisions of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 with respect to the upland cotton first handler and user marketing certificate programs, and modify the definition of semi-processed motes under the user marketing certificate program. These actions are required or authorized by the Agricultural Act of 1949 ("the 1949 Act"), as amended.

EFFECTIVE DATE: April 16, 1992.

FOR FURTHER INFORMATION CONTACT: Charles V. Cunningham, Director, Fibers Analysis Division, USDA–ASCS, room 3756–S, P.O. Box 2415, Washington, DC 20013 or call (202) 720–7954. The Final Regulatory Impact Analysis describing the options considered in developing this final rule is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures implementing Executive Order 12291 and Departmental Regulation 1512–1 and has been designated as "major". It has been determined that these program provisions may result in an annual effect on the economy of $100 million or more.

The titles and numbers of the federal assistance programs, as found in the catalogue of Federal Domestic Assistance, to which this final rule applies are:

Titles	Numbers
Commodity Loans and Purchases	10.051
Cotton Production Stabilization	10.052

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the Commodity Credit Corporation ("CCC") is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of these determinations.

It has been determined by an environmental evaluation that these actions will have no significant impact on the quality of the human environment.

Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

These programs/activities are not subject to the provisions of Executive Order 12372, which requires 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).

Information collection requirements of 7 CFR part 1413 have been previously approved by the Office of Management and Budget ("OMB") and assigned OMB No. 0560–0004 and 0560–0092. There are no new paperwork requirements imposed by this final rule with respect to 7 CFR part 1413. Information collection requirements contained in these regulations with respect to 7 CFR part 1427 have been previously approved by OMB and assigned OMB No. 0560–0074 and 0560–0136. Changes made to the Upland Cotton First Handler Agreement and the Upland Cotton Domestic User/Exporter Agreement as a result of this final rule will be submitted to OMB for approval. Public reporting burden for the information collections contained in these regulations with respect to 7 CFR part 1427 is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

This final rule has been reviewed in accordance with Executive Order 12778. Prior to any judicial action with respect to the provisions of these programs, all administrative appeal procedures specified in 7 CFR Part 780 and applicable contracts must be exhausted.

1992 Upland Cotton Program

A proposed rule was published in the **Federal Register** on September 13, 1991 (56 FR 46574), which would amend the regulations at 7 CFR part 1413 to set forth the acreage reduction percentage for the 1992 crop of upland cotton. The proposed rule provided a comment period which ended on October 15, 1991.

Twenty-four comments were timely received regarding the acreage reduction program (ARP) level. One respondent recommended a 0-percent ARP; fourteen recommended an ARP of not to exceed 5 percent; three recommended 5 percent; one recommended a range of 5 to 7.5 percent; one recommended not to exceed 10 percent; one recommended at least 10 percent, if not 15 percent; one recommended 12 percent; and two recommended 15 percent.

Section 103B of the 1949 Act requires that the ARP for upland cotton be set at a level that will result in a ratio of carryover to total disappearance of 30 percent, based on the most recent projection of carryover and total disappearance at the time of announcement of the ARP. The 1949 Act also requires that a preliminary ARP level for the 1992 crop be announced by not later than November 1, 1991, and that the final ARP level be announced not later than January 1, 1992.

The 1949 Act provides that the loan level for the 1992 crop of upland cotton be determined in accordance with a formula specified in section 103B(a). The 1949 Act also requires that the 1992 loan level be announced not later than November 1, 1991.

After considering the comments received and in accordance with the requirements of the 1949 Act, CCC announced, on October 31, 1991, a national average loan level of 52.35 cents per pound for the base quality of upland cotton and a preliminary ARP requirement of 10 percent for the 1992 crop of upland cotton. On December 17, 1991, a final ARP requirement of 10 percent was announced for the 1992 crop of upland cotton. Accordingly, §§ 1413.54 and 1427.8 are amended to incorporate these 1992 crop provisions.

1992 ELS Cotton Program

A proposed rule was published in the **Federal Register** on November 4, 1991 (56 FR 56335), which would amend the regulations at 7 CFR part 1413 to set forth the acreage reduction percentage for the 1992 crop of ELS cotton. The proposed rule provided a comment period which ended on November 15, 1991.

One comment was received regarding the ARP level. The respondent recommended continuation of a 5-percent ARP.

Section 103(h)(5) of the 1949 Act provides that an ARP may be established (including a zero-percentage ARP) if it is determined that the total supply of ELS cotton, in the absence of an ARP, will be excessive, taking into account the need for an adequate carryover to maintain reasonable and stable prices and to meet a national emergency.

The 1949 Act provides that the loan level for the 1992 crop of ELS cotton be determined in accordance with a formula specified in section 103(h)(2). The 1949 Act also requires that the 1992 loan level be announced not later than December 1, 1991.

After considering the comment received and in accordance with the provisions of the 1949 Act, on November 29, 1991, a national average loan level of 88.15 cents per pound and an ARP requirement of 5 percent for the 1992 crop of ELS cotton were announced.

Accordingly, §§ 1413.54 and 1427.8 are amended to incorporate these 1992 crop provisions.

Upland Cotton Marketing Certificate Provisions

The Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Pub. L. 102–237, enacted December 13, 1991) ("1991 Act"), amended several provisions of the 1949 Act with respect to the upland cotton marketing certificate provisions. The 1991 Act—

1. Authorizes payments under the first handler and user marketing certificate programs to be made either in marketing certificates or cash. Previously, only marketing certificates were authorized.

2. Provides that payments under the user marketing certificate program shall not be made in a week following a consecutive 4-week period in which the AWP exceeds 130 percent of the current crop year loan level for the base quality of upland cotton nor in a week following a consecutive 10-week period in which the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling one and three thirty-seconds inch (M 1 3/32 inch) cotton delivered C.I.F. (cost, insurance and freight) northern Europe ("U.S. Northern Europe price"), adjusted for the value of any user marketing certificate program payments issued, exceeds the Friday through Thursday average price quotation for the five lowest-priced growths, as quoted for M 1 3/32 inch cotton, delivered C.I.F. northern Europe ("Northern Europe price") by more than 1.25 cents per pound. Previously, no such limitations were included.

This final rule amends the regulations at 7 CFR part 1427 to implement these changes.

A final rule was published in the Federal Register on November 26, 1991 (56 FR 59851), setting forth at 7 CFR part 1427 the regulations with respect to the upland cotton first handler and user marketing certificate programs as required by section 103B(a)(5) (B) and (E) of the 1949 Act. The final rule provided that semi-processed motes that are suitable, without further processing, for spinning, papermaking or other traditional manufacturing uses are eligible for user marketing certificates program payments at a payment rate based on a percentage of the basic rate for baled lint. It has been determined by CCC that providing payment eligibility for semi-processed motes suitable, without further processing, for other traditional manufacturing uses may result in substantial displacement of textile mill wastes in certain competing end uses because textile mill wastes are not eligible for user marketing certificate program payments. This was not the intent of CCC in adopting this procedure. Therefore, the regulations at 7 CFR part 1427 are amended to provide eligibility for user marketing certificate program payments only for semi-processed motes that are of a quality suitable, without further processing, for spinning, papermaking or bleaching.

List of Subjects

7 CFR Part 1413

Acreage allotments, Cotton, Disaster assistance, Feed grains, Price support programs, Reporting and record keeping requirements, Rice, Soil conservation, Wheat.

7 CFR Part 1427

Cotton, Loan programs/agriculture, Packaging and containers, Price support programs, Reporting and recordkeeping requirements, Surety bonds, Warehouses.

Accordingly, 7 CFR parts 1413 and 1427 are amended as follows:

PART 1413—FEED GRAIN, RICE, UPLAND AND EXTRA LONG STAPLE COTTON, WHEAT AND RELATED PROGRAMS

1. The authority citation for 7 CFR part 1413 continues to read as follows:

Authority: 7 U.S.C. 1308, 1308a, 1309, 1441–2, 1444–2, 1444f, 1445b–3a, 1461–1469; 15 U.S.C. 714b and 714c.

2. Section 1413.54 is amended by revising paragraph (a)(3) and adding a new paragraph (a)(5) to read as follows:

§ 1413.54 Acreage reduction program provisions.

(a) * * *

(3)(i) 1991 upland cotton, 5 percent;

(ii) 1992 upland cotton, 10 percent;

* * * * *

(5)(i) 1991 ELS cotton, 5 percent;

(ii) 1992 ELS cotton, 5 percent.

* * * * *

PART 1427—COTTON

3. The authority citation for 7 CFR part 1427 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1425, 1444, and 1444–2; 15 U.S.C. 714b and 714c.

4. Section 1427.5 is amended by revising the introductory text to paragraph (a) to read as follows:

§ 1427.5 General eligibility requirements.

(a) In order to receive price support for a crop of cotton, a producer must execute a note and security agreement or loan deficiency payment application on or before May 31 of the year following the year in which such crop is normally harvested. A Form A loan must be signed by the producer or the producer's agent and mailed or delivered to the county office or an authorized LSA within 15 days after the producer signs the Form A loan and within the period of loan availability.

* * * * *

5. Section 1427.8 is amended by redesignating paragraphs (a), (b), and (c) as (b), (c), and (d), adding a new paragraph (a), and revising the introductory text to paragraph (c) as redesignated to read as follows:

§ 1427.8 Amount of loan.

(a) Price support loans are available to producers of upland and ELS cotton at a national average support level determined and announced by CCC. The national average support levels are:

(1)(i) 1991 upland cotton, 50.77 cents per pound;

(ii) 1992 upland cotton, 52.35 cents per pound;

(2)(i) 1991 ELS cotton, 82.99 cents per pound;

(ii) 1992 ELS cotton, 88.15 cents per pound.

* * * * *

(c) The amount of the loan for each bale will be determined by multiplying the net weight of the bale, as determined under paragraph (b) of this section, by the applicable loan rate and subtracting:

* * * * *

6. Section 1427.50 is amended by revising paragraph (a) to read as follows:

§ 1427.50 Applicability.

(a) The regulations of this subpart are applicable during the period beginning August 1, 1991, and ending July 31, 1996. These regulations set forth the terms and conditions under which the Commodity Credit Corporation ("CCC") shall make payments, in the form of commodity certificates or cash, to eligible first handlers of upland cotton who have entered into an Upland Cotton First Handler Agreement with CCC to participate in the first handler marketing certificate program, in accordance with Section 103B(a)(5)(B) of the Agricultural Act of 1949, as amended.

* * * * *

7. Section 1427.51 is amended by revising paragraph (f) to read as follows:

§ 1427.51 Administration.

* * * * *

(f) Payment applications, Upland Cotton First Handler Agreements and related documents not executed in accordance with the terms and conditions determined and announced

by CCC, including any purported execution prior to the date authorized by CCC, shall be null and void.

8. Section 1427.56 is revised, including section title, to read as follows:

§ 1427.56 Form of payment.

Payments in accordance with this subpart shall be made available in the form of commodity certificates issued in accordance with part 1470 of this chapter, or in cash, as determined and announced by CCC.

9. Section 1427.100 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1427.100 Applicability.

(a) The regulations in this subpart are applicable during the period beginning August 1, 1991, and ending July 31, 1996. These regulations set forth the terms and conditions under which the Commodity Credit Corporation ("CCC") shall make payments, in the form of commodity certificates or cash, to eligible domestic users and exporters of upland cotton who have entered into an Upland Cotton Domestic User/Exporter Agreement with CCC to participate in the upland cotton user marketing certificate program, in accordance with Section 103B(a)(5)(E) of the Agricultural Act of 1949, as amended.

(b)(1) During the period beginning August 1, 1991, and ending July 31, 1996, CCC shall issue marketing certificates or cash payments to domestic users and exporters for documented purchases by domestic users and sales for export by exporters made in a week following a consecutive 4-week period in which—

(i) The Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling one and three thirty-seconds inch ("M 1 3/32 inch") cotton, delivered C.I.F. (cost, insurance and freight) northern Europe ("U.S. Northern Europe price") exceeds the Friday through Thursday average price quotation for the five lowest-priced growths, as quoted for M 1 3/32 inch cotton, delivered C.I.F. northern Europe ("Northern Europe price") by more than 1.25 cents per pound; and

(ii) The adjusted world price for upland cotton, determined in accordance with § 1427.25, does not exceed 130 percent of the current crop year loan level for the base quality of upland cotton.

(2) Notwithstanding the provisions of paragraph (b)(1) of this section, CCC shall not issue marketing certificates or cash payments if, for the immediately preceding consecutive 10-week period, the U.S. Northern Europe price, adjusted for the value of any certificates or cash payments issued under paragraph (b)(1) of this section, exceeds the Northern Europe price by more than 1.25 cents per pound.

* * * * *

10. Section 1427.101 is amended by revising paragraph (f) to read as follows:

§ 1427.101 Administration.

* * * * *

(f) Payment applications, Upland Cotton Domestic User/Exporter Agreements and related documents not executed in accordance with the terms and conditions determined and announced by CCC, including any purported execution prior to the date authorized by CCC, shall be null and void.

11. Section 1427.103 is amended by revising paragraphs (b)(3) and (c)(4) to read as follows:

§ 1427.103 Eligible upland cotton.

* * * * *

(b) * * *

(3) Semi-processed motes which are of a quality suitable, without further processing, for spinning, papermaking or bleaching;

* * * * *

(c) * * *

(4) Semi-processed motes which are not of a quality suitable, without further processing, for spinning, papermaking or bleaching;

* * * * *

12. Section 1427.106 is revised, including section title, to read as follows:

§ 1427.106 Form of payment.

Payments in accordance with this subpart shall be made available in the form of commodity certificates issued in accordance with part 1470 of this chapter, or in cash, as determined and announced by CCC.

13. Section 1427.107 is amended by redesignating paragraphs (b), (c), (d), and (e) as (c), (d), (e), and (f), adding a new paragraph (b) and revising paragraph (f) as redesignated to read as follows:

§ 1427.107 Payment rate.

* * * * *

(b) Notwithstanding the provisions of paragraph (a) of this section, no payment rate shall be established in a week following:

(1) A consecutive 4-week period in which the adjusted world price, determined in accordance with § 1427.25, exceeds 130 percent of the current crop year loan level for the base quality of upland cotton, or

(2) A consecutive 10-week period in which the U.S. Northern Europe price, adjusted for the value of any certificate or cash payments issued in accordance with paragraph (a) of this section, exceeds the Northern Europe price by more than 1.25 cents per pound.

* * * * *

(f) Payment rates for loose, reginned motes and semi-processed motes which are of a quality suitable, without further processing, for spinning, papermaking or bleaching shall be based on a percentage of the basic rate for baled lint, as specified in the Upland Cotton Domestic User/Exporter Agreement.

Signed at Washington, DC on April 14, 1992.

John A. Stevenson,

Acting Executive Vice President, Commodity Credit Corporation.

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BILLING CODE 3410-05-M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 500, 516, 543, 544, 545, 546, 550, 552, 558, 559, 563, 563b, 563f, 566, 567, 571, 574, 579, and 584

[No. 92-134]

RIN 1550-AA37

Applications Restructuring

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS) is today adopting a comprehensive regulation restructuring the role and processing of applications in the regulation and supervision of the thrift industry. The purpose of the rule is to: eliminate or streamline the existing application or notice requirements for many types of transactions or activities; establish "standard" and "expedited" application and notice processes that increase the flexibility of savings associations with satisfactory MACRO; Community Reinvestment Act (CRA), and Compliance ratings to engage in certain new activities and discourage applications by associations with lower MACRO, CRA, and Compliance ratings to engage in new activities unless the proposed activity would clearly improve their financial or managerial condition or CRA or Compliance performance; and replace the application requirements on some activities with a notice requirement.

EFFECTIVE DATE: June 30, 1992.

FOR FURTHER INFORMATION CONTACT: Mary Jo Johnson, Policy Analyst, (202)

906–5739, Policy; Evelyne Bonhomme, Senior Attorney, (202) 906–7052, Regulations and Legislation Division; David Permut, Counsel (Banking and Finance), (202) 906–7505, Corporate and Securities Division; or Diana L. Garmus, Deputy Assistant Director, (202) 906–5683, Corporate Activities Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

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I. Background and Description of Proposal

In August, 1991, the OTS published in the **Federal Register** a notice of proposed rulemaking to streamline the applications process. 56 FR 41972 (August 26, 1991). The public comment period closed on October 25, 1991. The proposed regulation would have modified the OTS's current applications-related regulations to (i) restructure application processing procedures by delegating most applications to the Regional Offices for approval; (ii) eliminate some application requirements and pre-transaction or activity notices and certain applications entirely; (iii) establish "expedited" and "standard" treatments for requests to engage in some activities, differentiating on the basis of associations' financial and managerial strengths, and statutory and regulatory compliance records; (iv) replace some application requirements with notice and certification requirements; and (v) streamline some notice requirements.

By Director's Order, the Director of OTS would delegate the authority to approve and deny applications to its Regional Offices. With the approval of the Director, this authority would have been subdelegated where appropriate. Under the proposal, the only application issues that would fall outside the purview of Regional Directors would be those related to significant, new, or unresolved issues of law or policy, except for securities filings or other matters designated by regulation or delegation for Washington consideration. Most applications, however, would be included as part of the Director's delegation to Regional Offices and subject to change as the Director deems appropriate.

Under the proposal, a new part 516 would be added in order to centralize the application processing guidelines and procedures.

A number of OTS's existing regulations contain application requirements that may not be essential to effective supervision of these activities. The proposal would have removed the application or notice requirements from these regulations.

The proposal was based upon an approach that differentiated among savings associations in the application process depending upon their financial and managerial conditions and their records of compliance with applicable statutes and regulations, including the CRA. Under the proposal, savings associations with adequate capital, in good financial condition, with qualified management, and with satisfactory or better CRA and Compliance ratings would have been afforded "expedited treatment" by OTS in considering their requests or intentions to engage in certain activities. These associations would have been given maximum flexibility to engage in a variety of activities free from application requirements altogether or would only be required to file a notice or certification in connection with the commencement of a particular activity, depending on the activity at issue. Any additional risks to safety and soundness posed by these activities would primarily be addressed through other supervisory means, such as the examination process or offsite monitoring. In a situation that raised particular supervisory concerns, OTS could require an application from a savings association that would otherwise qualify for expedited treatment. Additionally, after reviewing a notice submitted by an association eligible for "expedited treatment," OTS could have determined that it required additional information and/or the submission of an application. Notices submitted by savings associations eligible for "expedited treatment" would have been deemed "applications" for purposes of statutory and regulatory requirements referring to applications.

The proposal defined a savings association eligible for expedited treatment as any thrift institution that had not been notified, pursuant to RB 3a–1, that it required more than normal supervision; that met or exceeded its minimum capital requirements; and that had composite MACRO, CRA, and Compliance ratings of 1 or 2, or satisfactory or better.

Under the proposal, "standard treatment" of requests to engage in new activities would have been given to applications from a savings association requiring more than normal supervision, any savings association having a composite MACRO or Compliance rating of 3, 4 or 5, a savings association failing any one of its minimum capital requirements, or a savings association with a CRA rating of less than satisfactory.

Savings associations receiving "standard treatment" would still be required to file the necessary applications under the applicable regulations. The proposal set forth the explicit presumption, however, that applications by such an association to engage in a new activity would be denied unless the applicant demonstrated that the proposed activity would clearly improve its financial or managerial condition or, as applicable, its compliance with the requirements of the CRA or other consumer-related statutes and regulations (without further impairing its financial condition). Consequently, savings associations subject to "standard treatment" would be strongly encouraged to consult with supervisory personnel before filing an application.

All new notice requirements that would have been created by the proposed regulation for activities or transactions subject to CRA publication requirements remained subject to those publication requirements.

The proposal also would have replaced the current application requirements for holding company deregistration, standard charter amendments (excluding name changes) and new charters for federal associations, standard federal mutual or stock savings association bylaws with a simpler and more straightforward notice and certification requirement for all savings associations.

Regardless of whether a notice or an application was ultimately filed with the agency, the association would have been required to maintain all of the necessary documentation and records for OTS to determine, in its examination of the association, that it is complying with all of the regulatory requirements.

II. Summary of Comments and OTS Response

The OTS received nine comment letters in response to its proposal. Commenters included: four individuals; three trade associations; one savings association; and one law firm. The four individual commenters opposed the proposal as a whole, generally for

reasons discussed below. The other commenters generally supported the proposed restructuring of the application processing and streamlining of notice requirements while expressing various concerns about the proposal and suggesting clarifications and modifications. The issue receiving the most comments was the definition and standards of eligibility to be used in determining whether an association qualifies for the "expedited" or "standard" application and notice processes.

A. Definition and Standards of Eligibility

One commenter argued that Regional Directors should be given discretion to determine whether MACRO 3-rated institutions qualify for "expedited treatment" or to grant exemptions on a case-by-case basis where the 3-rating is based solely on asset problems. The commenter suggested that the definition of eligibility for "expedited treatment" be modified to include institutions that do not require more than normal supervision in accordance with RB 3a–1 and those that meet or exceed the minimum capital requirements and have composite MACRO, CRA and Compliance ratings of 1 or 2, or satisfactory or better. The institution could receive "expedited treatment" if the MACRO rating is a 3, if it is determined by the Regional Director, on a case-by-case basis, that such treatment is warranted.

The OTS believes that "standard treatment" for all MACRO 3-rated institutions best recognizes the overall condition of the institution and is an appropriate presumption. It allows the agency the flexibility to approve the application for the proposed activity if it is determined that the institution's performance would clearly improve. The same is true for institutions with a Compliance rating of 3, or a less than satisfactory CRA rating.

Two commenters, who otherwise strongly supported the proposal, opposed using the MACRO rating in determining the eligibility of an institution for "expedited" or "standard" application processing treatment. They argued that the criteria for expedited treatment should be limited to the existence of adequate capital, good financial condition, qualified management, and "Satisfactory" or better CRA and Compliance ratings. One commenter suggested that if a MACRO rating of 3 excludes an association from "expedited treatment," the Regional Office should be afforded the latitude to allow the association "expedited treatment" based on its strengths in the other criteria.

One commenter disagreed with the explicit presumption that applications filed by less healthy institutions will be denied unless the applicant can prove the proposed activity clearly would improve its condition or compliance with consumer-related laws. The commenter argued that the negative presumption should be eliminated. Alternatively, the phrase "clearly improve" should be defined with regard to financial or managerial condition or compliance with consumer-related laws to avoid cases in which institutions refrain from filing applications that potentially or indirectly could benefit them.

After reviewing these comments, the OTS has decided that the objectives of streamlining various application processes, consistent with safety and soundness, are best accomplished by using associations' MACRO, Compliance, and CRA ratings to determine eligibility for "expedited treatment" of applications, and using an explicit presumption that applications by associations receiving "standard treatment" will be denied unless they demonstrate that the new activity will clearly improve the association's financial or managerial condition, its compliance with consumer-related statutes and regulations, or its CRA performance, as applicable. The use of the presumption is appropriate because it is consistent with the definition of "problem" association. Similarly, the use of the ratings is appropriate because they are current and reliable measures of performance in these three critical areas. The criteria for "expedited treatment" and "standard treatment" have been clarified, however, to reflect terminology that is more consistent with other regulatory standards.

Accordingly, an association eligible for "expedited treatment" is defined as an institution that:

- Meets or exceeds its minimum capital requirements;
- Has composite MACRO, CRA, and Compliance ratings of 1 or 2, or satisfactory or better; and
- Has not been notified that it is a "problem" association or an association in "troubled condition."

Standard treatment of requests to engage in new activities will be given to applications from a savings association that:

- Has a composite MACRO or Compliance rating of 3, 4, or 5;
- Is failing any of its minimum capital requirements;
- Has a CRA rating less than satisfactory; or
- Has been notified that it is a "problem" association or that it is in "troubled condition."

"Problem" associations or associations in "troubled condition" are those:

- With a composite MACRO rating of 4 or 5;
- Failing any of its minimum regulatory capital requirements;
- Subject to a capital directive or a cease and desist order, a consent order, or a formal written agreement, relating to the safety and soundness or financial viability of the savings association, unless otherwise informed in writing by the Office; or
- Notified in writing by the Office that it has been designated a "problem" association or an association in "troubled condition."

In response to one of the comments, the OTS also has determined to clarify what was meant by the phrase "clearly improve." The regulation provides that the following factors, among others, will be taken into consideration in applying this criterion to a proposed activity or transaction. The list, however, should not be considered all inclusive, and other factors will be considered when relevant, on a case-by-case basis.

Time Frame, Prudence and Conduct of Proposed Activity

The Regional Director, or his designee, upon receiving an application from a 3, 4, or 5 MACRO rated institution or an institution notified of "problem" status or that it is in "troubled condition," must determine that the proposed transaction will help the association meet its applicable capital standards or improve its capital position if already meeting these requirements, within a short period of time, and that the proposed activity is prudent, is or will be adequately capitalized, and will be conducted in a manner that is consistent with safety, soundness, and the interests of the insurance fund.

Reasonableness of Assumptions, Capital or Business Plan, Operations, Compliance With Regulations

The application must demonstrate realistic near-term and long-term profitability goals. In addition, the proposal must demonstrate that it is based on reasonable and explicit assumptions with interim targets that can be measured and generally will be part of a capital or business plan. The applicant must also demonstrate that appropriate operating controls, policies and procedures by individuals

considered competent to undertake and direct such activities, are provided. Finally, the application must demonstrate that the applicant's capital-raising strategy is in accordance with the OTS's rules, regulations, and policy statements, including normal application procedures, and is within the guidelines of applicable thrift and regulatory bulletins.

Historical Performance

The Regional Director, or his designee, will consider the association's past operating history and performance and will assess whether any increase in the association's risk profile is limited and proportionate to anticipated increases in capital through approval of the proposed activity.

Change of Management

The Regional Director, or his designee, must also consider whether approval of a proposed activity will result in a change of management and whether the change is acceptable and in the best interests of the association.

CRA Performance

Applicants should be aware that in the case of less than satisfactory CRA performance, the Regional Director, or his designee, must evaluate appropriate applications in conformance with the 1989 Statement of Federal Financial Supervisory Agencies Regarding the Community Reinvestment Act. That policy statement explicitly provides that applicants are expected to have addressed their CRA responsibilities and have necessary policies in place and working well before they submit an application. The Regional Director, or his designee, must consider the institution's entire CRA record as an integral component of the analysis that accompanies the application process.

The policy statement provides, in part, that commitments made by an applicant for future action are not viewed as part of the CRA record of performance of the institution, but may be given weight as an indicator of potential for improvement in the institution's performance. Commitments cannot be used to overcome a seriously deficient record of CRA performance. In some cases, however, commitments may be appropriate in addressing CRA performance in the context of acquisition of a troubled financial institution. In other cases, commitments are important to the conclusion that the resulting institution will meet the convenience and needs considerations consistent with approval of the application. In appropriate cases, however, OTS may grant conditional approval of an application and require that the institution involved take specific actions to improve CRA performance. Generally, approval granted by the agency becomes effective or final for purposes of appeal upon issuance. Failure to fulfill conditions of an approval may result in subsequent withdrawal of the approval or enforcement actions including the imposition of civil money penalties.

Compliance Considerations

In situations involving less than satisfactory compliance ratings, the Regional Director, or his designee, must determine that the proposed transaction will enable the association to meet its responsibilities under various consumer-related statutes (such as the Truth in Lending Act and Equal Credit Opportunity Act) and public-interest laws (such as the Bank Secrecy Act). Applicants need to consider the ways in which the transaction will enhance their compliance performance. For example, in the case of an acquisition, the target financial institution may have an exemplary compliance program, outstanding internal policies and procedures, and a knowledgeable and effective compliance staff, which the applicant may plan to retain and adopt as its own. Such an action would be likely to improve its own compliance performance.

B. Other Comments and Issues

One commenter urged the replacement of the application process with a notification procedure for thrifts eligible to avail themselves of the 30% LTOB limit for residential production lending as provided for in FIRREA.

The OTS has considered this suggestion and has determined to replace the application process with a notification procedure for thrifts eligible to avail themselves of the 30% LTOB limit for residential production lending. This change reduces the burden to the industry and the OTS, without compromising safety and soundness, and resolves the problems of continuity by obviating the need for an association to file applications annually for the same activity.

One individual commenter argued that applications and notices were valuable tools to ensure thrifts' compliance with regulations and, therefore, should be retained. As discussed in the preamble to the proposal, 56 FR at 41973, OTS believes that more effective and less cumbersome, less time-consuming, and less costly means than applications are available to regulate many activities of savings associations.

One commenter argued that the Regional Offices did not have the expertise to make application decisions. Another commenter stated that Washington was in a better position to make good and consistent decisions. One commenter thought that the proposal eliminated the opportunity to prevent regulatory violations, leaving the task of discovering them to examiners after such violations had occurred.

The OTS has carefully considered all these concerns and believes that duplication of efforts by Regional and Washington staff can be minimized. Decentralized application decision-making allows the agency official who supervises the applicant most closely to make the decision. Review of the Regional application process is an integral part of the OTS internal audit function. The performance of the Regions will be evaluated to determine how well they are achieving the OTS goal of prudent utilization of applications as a supervisory tool. The primary role of the OTS Washington headquarters in this process will be the oversight of the Regional Offices' application processing function while it continues to fulfill its overall policy-making function and establish national application standards and guidelines. Delegations therefore are being removed from regulations and will be incorporated in a Director's order that will contain appropriate standards for authorizing action under delegated authority.

One commenter recommended that the OTS modify §§ 545.74(b)(7) and 563.37(c) to reflect the exemption contained in section 18(m)(5) of the Federal Deposit Insurance Act ("FDIA"). Section 18(m)(5) expressly exempts federal savings banks that were chartered before October 15, 1982, from the notice requirement that savings associations must submit to the OTS and FDIC before establishing a new subsidiary or engaging in a new activity through an existing subsidiary. See 12 U.S.C. 1828(m)(5).

In response to that comment, the OTS is amending §§ 545.74(b)(7) and 563.37(c) to reflect the exemption contained in section 18(m)(5) of the FDIA.

One commenter suggested that the Regional Offices implement an acknowledgment step for the receipt of an application or notice prior to beginning the review process. The Application Processing Handbook and § 516.2 require that the OTS notify an applicant in writing within 5 business days of receipt of an application.

Another commenter suggested that the fees reflecting the costs involved in processing applications be tailored to meet the needs of the transaction or, as an alternative, that a de minimis exception be developed where the transaction or activity is under a certain dollar amount such as $10,000. The OTS plans to assess a lower fee for "expedited processing" and a higher fee for "standard processing" of an application based on actual review of time spent and corresponding cost incurred by the OTS. The fee schedule is printed in a Thrift Bulletin that is published annually. Appropriate changes will be reflected in the next revision of the schedule.

The proposal also would have required 20 days notice to applicants when the OTS intended to extend the time for review. Upon reconsideration of the proposal, the OTS has determined that a 20-day time frame would present an undue burden on the agency, and therefore, will reduce the time period to 10 days in the final rule. The OTS believes this reduction will expedite applications processing.

Upon reconsideration, OTS has determined to address most holding company issues in another regulation. In addition, OTS has determined to streamline by deleting certain obsolete or superseded provisions including: (1) Section 545.94 regarding the closing of a branch office because it has been superseded by the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA); (2) section 563.93(g) regarding lending limitations because the authority expired on December 31, 1991; and (3) section 563.133 regarding the sale of FHLMC stock because it is obsolete.

III. Description of Final Rule

Today's final rule, which eliminates or streamlines various application or notice requirements, does not differ significantly from the proposal. As stated in the proposal, not all applications or notices will be eligible for "expedited" treatment. The final rule sets forth those applications where "expedited" treatment will be available. As OTS gains experience with these requirements it is anticipated that more applications will be designated as eligible for "expedited" treatment.

Including changes made in response to comments received, as discussed above, the major differences between today's rule and the proposal are the: (1) Clarification of the criteria for "expedited treatment" and "standard treatment" of applications; (2) replacement of the application process with a notification procedure for thrifts eligible to avail themselves of the 30% LTOB limit for residential production lending; (3) deletion of § 563.93(g) regarding lending limitations; (4) deletion of § 563.133 regarding the sale of FHLMC preferred stock; (5) change of time frame from 20 days to 10 days for notification of extension of time to consider applications; (6) removal of the notice requirement and the references to account forms from § 563.1; (7) amendment of § 545.77 consistent with the approach set forth in the Miscellaneous Capital Proposed Regulation. 56 FR 15303 (April 16, 1991); and (8) removal of changes to §§ 584.1 and 584.5 from final rule.

As discussed in the preamble, the following changes also are made in connection with today's rule: (1) Listing of certain factors related to financial or managerial condition or compliance with consumer-related laws that OTS will use to determine, on a case-by-case basis, whether an activity or a transaction would "clearly improve" an association's financial or managerial condition, as applicable; and (2) tailoring the application fees to the cost of the application process.

OTS takes this opportunity, however, to reiterate that this more expedited, less burdensome method of processing, or removing the need for, applications does not alter the obligations of institutions to comply with any applicable laws, rules or regulations.

IV. Administrative Procedure Act

The final rule contains a number of technical and organizational amendments that were not included in the proposal. These amendments revise the descriptions of the OTS's organizational structure set out in subpart B of part 500, as well as correct cross-references to new titles found throughout chapter V. Pursuant to 5 U.S.C. 553(a)(2), the OTS has determined that this portion of today's rule is not subject to the notice and comment provisions of the Administrative Procedure Act because it relates to agency organization and procedure, a matter specifically exempt from the provisions of that Act.

V. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, it is certified that this rule will not have a significant economic impact on a substantial number of small entities.

VI. Executive Order 12291

The OTS has determined that this final rule does not constitute a "major rule" and, therefore, does not require the preparation of a regulatory impact analysis.

VII. Paperwork Reduction Act

The regulations addressed in this rule contain a number of information collections under the Paperwork Reduction Act of 1980, 44 U.S.C. 3504(h). The rule would reduce the burden imposed under some of the regulations, as well as eliminate the burden from others. Therefore, several of the collections of information have been submitted to and approved by the Office of Management and Budget, in order to amend the burdens imposed as they are currently reflected in their respective inventories. In the instances where the burden would be removed altogether, corrective action worksheets have been filed.

Comments on the collections should be sent to the Office of Management and Budget, Paperwork Reduction Project (1550), Washington, DC 20503, with copies to the Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

The collections of information in this regulation are found in the sections of OTS's regulations listed below. In addition, the OMB Control Numbers under which they have been approved are listed.

12 CFR 544.2 and 552.4

The collection of information under these sections has been approved under OMB Control No. 1550–0018.

The likely respondents include any savings association requesting to amend its charter.

The information is used by OTS to evaluate the merits of the request in light of the applicable statutory and regulatory criteria and OTS policy.

12 CFR 544.5 and 552.5

The collection of information under these sections has been approved under OMB Control No. 1550–0017.

The likely respondents include any savings association requesting to amend its bylaws.

The information is used by OTS to evaluate the merits of the request in light of the applicable statutory and regulatory criteria and OTS policy.

12 CFR 545.74(c)(4)

The collection of information under this section has been approved under OMB Control No. 1550–0013.

The likely respondents include any savings association requiring approval prior to operating a service corporation to engage in activities not preapproved by regulation. The regulation also

requires a recordkeeping requirement for securities brokerage services.

The information is used by OTS to evaluate the merits of the request in light of the applicable statutory and regulatory criteria and OTS policy.

12 CFR 545.77(b)

A corrective action worksheet has been filed to delete this collection of information.

12 CFR 545.92 and 545.95

The collection of information under these sections has been approved under OMB Control No. 1550–0006.

The likely respondents are savings associations subject to standard treatment, as defined in § 516.3(a) of OTS's regulations, which desire to establish or change a location of a branch office.

The information is needed by OTS in order to determine whether the application meets OTS's criteria for approval for permission to establish a branch office or for relocation of existing branch offices.

12 CFR 545.96(d)

The collection of information is being removed from this section. It was previously exempt pursuant to 5 CFR 1320.7(j)(1).

12 CFR 563.4

The collection of information is being removed from this section.

12 CFR 563.43

The collection of information contained in this section is currently approved under OMB Control No. 1550–0011.

The likely respondents include any savings associations involved in transactions subject to the restrictions of 12 CFR 563.43 who must adequately document for review all such transactions.

The information is used by savings associations for internal management control purposes and by OTS examiners to determine whether the savings associations are being operated safely, soundly, and in regulatory compliance.

12 CFR 563.45

The collection of information under this section has been approved under OMB Control No. 1550–0002.

The likely respondents include savings associations that are required to maintain records that in reasonable detail, accurately reflect transactions between savings associations and their subsidiaries and affiliates or affiliated persons.

The information is used by savings associations for internal management control purposes and by OTS examiners to determine whether the savings associations are being operated safely, soundly and in regulatory compliance.

12 CFR 563.81

The collection of information under this section has been approved under OMB Control No. 1550–0030.

The likely respondents include any savings association that is required to submit an application for approval prior to issuing subordinated debt securities or mandatorily redeemable preferred stock. Any savings association eligible for expedited treatment pursuant to 12 CFR 516.3(a), is required to submit 30-day advance written notice of its intention to issue securities.

The information is used by OTS to determine if the proposed issuance conforms to the criteria in the regulation and would not be financially detrimental to the association.

12 CFR 566.4

The collection of information under this section has been approved under OMB Control No. 1550–0011.

The likely respondents include all savings associations that are required to maintain records verifying their compliance with OTS's liquidity regulations.

The information is used by savings associations for internal management control purposes and by OTS examiners to determine whether the savings associations are being operated safely, soundly and in regulatory compliance.

VIII. Table of Contents for Regulatory Changes

Sec. 563.134 [Amended] Capital distributions

Part 563b

Sec. 563b.3 General principles for conversions
Sec. 563b.8 Procedural requirements
Sec. 563b.28 Procedural requirements
Sec. 563b.29 Conditions of approval
Sec. 563b.39 Application for modified conversions
Sec. 563b.41 Procedural requirements

Part 563f

Sec. 563f.7 Exemptions and extensions of time

Part 566

Sec. 566.3 Liquidity
Sec. 566.4 Records; Deficiencies
Sec. 566.5 [Removed and Reserved] Payment of Penalty

Part 571

Sec. 571.12 [Removed and Reserved] Applications processing guidelines
Sec. 574.3 Acquisition of control of savings associations
Sec. 574.4 Control
Sec. 574.5 Certifications of ownership and other reports
Sec. 574.6 Procedural requirements
Sec. 574.7 Determination by the office
Sec. 574.9 [Removed] Delegations of authority

Part 584

Sec. 584.2–1 Prescribed services and activities of savings and loan holding companies
Sec. 584.2–2 Permissible bank holding company activities of savings and loan holding companies
Sec. 584.9 Prohibited acts

List of Subjects

12 CFR Part 500

Organization and functions (Government agencies).

12 CFR Part 516

Applications, Reporting and recordkeeping requirements, Savings associations.

12 CFR Parts 543, 546, 558, 559, 579

Savings associations.

12 CFR Part 544

Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 545

Accounting, Consumer protection, Credit, Electronic funds transfers, Investments, Manufactured homes, Mortgages, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 550

Reporting and recordkeeping requirements, Savings associations, Trusts and trustees.

12 CFR Parts 552 and 563b

Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 563

Accounting, Advertising, Crime, Currency, Flood insurance, Investments, Reporting and recordkeeping requirements, Savings associations, Securities, Surety bonds.

12 CFR Part 563f

Antitrust, Holding companies, Savings associations.

12 CFR Part 566

Liquidity, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 567

Capital, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 571

Accounting, Conflicts of interest, Gold, Investments, Reporting and recordkeeping requirements, Savings associations.

12 CFR Parts 574 and 584

Administrative practice and procedure, Holding companies, Reporting and recordkeeping requirements, Savings associations, Securities.

Accordingly, the Office of Thrift Supervision hereby amends chapter V, title 12, Code of Federal Regulations, as follows:

CHAPTER V—OFFICE OF THRIFT SUPERVISION, DEPARTMENT OF THE TREASURY

1. Chapter V is amended by removing the words "Senior Deputy Director for Supervision (Operations)" wherever they appear in §§ 558.3, 558.4, 559.3, 563.170(c)(4), 563b.27(e), 563b.28(c)(2), 567.3 (a)(1), (a)(2), (d)(1), (d)(3), and (d)(5), 567.4 (a)(1) introductory text, (a)(2) introductory text, (a)(3)(i) introductory text, and (a)(4), 571.1(a)(1), 571.2 (b), (d)(1), (e)(4)(ii), and 579.5, and by adding in lieu thereof the words "Deputy Director for Regional Operations".

2. Chapter V is amended by removing the words "Senior Deputy Director for Supervision (Policy)" wherever they appear in §§ 563.160(f)(3), 567.3 (a)(1) and (a)(2), and 571.16(c)(10), and by adding in lieu thereof the words "Deputy Director for Washington Operations".

SUBCHAPTER A—ORGANIZATION AND PROCEDURES

PART 500—ORGANIZATION AND CHANNELLING OF FUNCTIONS

3. The authority citation for part 500 continues to read as follows:

Authority: Sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464).

4. Subpart B of part 500 is revised to read as follows:

Subpart B—General Organization

Sec.
500.10 The OTS or The Office.
500.11 Washington Operations.
500.12 Regional Operations.
500.14 Congressional Affairs Office.
500.15 Public Affairs Office.
500.17 The Chief Counsel.

Subpart B—General Organization

§ 500.10 The OTS or The Office.

The Office of Thrift Supervision (referred to as "OTS" or "Office") is an office of the Department of the Treasury. Its functions are to charter, supervise, regulate and examine Federal savings associations and to supervise, regulate and examine all savings associations. It is directed by a Director, who is appointed by the President and confirmed by the Senate to a five-year term.

§ 500.11 Washington Operations.

Washington Operations oversees supervisory operations, policy, information resources management, and administration within the OTS. In addition, it develops national policy guidelines for existing statutes and regulations, establishes programs to implement new policies and laws, establishes and maintains programs and procedures for the examination of savings associations, develops and maintains surveillance systems to monitor the condition of the industry, develops and maintains financial management and information systems, maintains human resource programs, processes savings association applications, and provides specialized supervision for certain savings associations.

§ 500.12 Regional Operations.

Regional Operations is responsible for the examination and supervision of savings associations in the five regions to ensure the safety and soundness of the industry. In addition it is responsible for overseeing the training and development of federal thrift regulators through accredited programs.

§ 500.14 Congressional Affairs Office.

The Congressional Affairs Office is responsible to the Director for ensuring appropriate coordination and communication with Congress, savings associations and the public. It is also responsible for coordinating correspondence with Congress and savings associations.

§ 500.15 Public Affairs Office.

The Public Affairs Office is responsible for directing and coordinating communication with the news media and the public.

§ 500.17 The Chief Counsel.

The Chief Counsel is the chief legal officer of the OTS and has, among other functions, those set forth in this section. The Chief Counsel is responsible for the representation of the OTS in judicial proceedings in which the OTS is involved as a party or as amicus curiae. The Chief Counsel is also responsible for defending all appeals of final OTS orders in the federal Courts of Appeal. The Chief Counsel is responsible for advising the OTS with respect to interpretations involving questions of law, for the preparation of legislation, and for the preparation and interpretation of regulations. In addition, the Chief Counsel also is responsible for dealing with general problems arising under the Administrative Procedure Act and for dealing with legal problems arising under applications to the OTS.

§ 500.32 [Removed]

5. Section 500.32 is removed.

6. A new part 516 is added to subchapter A to read as follows:

PART 516—APPLICATION PROCESSING GUIDELINES AND PROCEDURES

Sec.

Authority: 12 U.S.C. 552, 559; sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464).

§ 516.1 Offices of the Office of Thrift Supervision; information and submittals.

(a) The headquarters of the OTS is located at 1700 G Street, NW., Washington, DC 20552. General information concerning the OTS may be obtained in person at that location or by written request to the OTS at the above address.

(b) The Regional Offices of the OTS and their regions are as follows:

(1) Northeast Regional Office, 10 Exchange Place Centre, 17th Floor, Jersey City, New Jersey 07302. (Region: Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, West Virginia.)

(2) Southeast Regional Office, 1475 Peachtree Street, NE., Atlanta, Georgia 30348–5217. (Region: Alabama, District of Columbia, Florida, Georgia, Maryland, North Carolina, Puerto Rico, South Carolina, the Virgin Islands, Virginia.)

(3) Central Regional Office, 111 East Wacker Drive, suite 800, Chicago, Illinois 60601–4360. (Region: Illinois, Indiana, Kentucky, Michigan, Ohio, Tennessee, Wisconsin.)

(4) Midwest Regional Office, 122 W. John Carpenter Freeway, suite 600, P.O. Box 619027, Irving, Texas 75039. (Region: Arkansas, Colorado, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas.)

(5) West Regional Office, 1 Montgomery Center, Suite 400, San Francisco, California 94104. (Region: Alaska, Arizona, California, Guam, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, Wyoming.)

(c) *Filings.* Applications, notices or other filings, as provided for in the OTS's regulations shall be submitted to the appropriate Regional Office, unless specifically noted otherwise in the procedures for a particular filing. The original and two conformed copies shall be filed for each application or notice. All copies should be clearly captioned as to the type of filing and should contain all exhibits and other pertinent documents. Application forms, notice forms and instructions are available from each Regional Office. Additional copies, in addition to the three required for every application are required for the following applications:

(1) Merger or branch purchase applications filed pursuant to § 563.22 of this chapter or notices filed pursuant to § 574.3(b) of this chapter involving a merger (including a merger involving an interim association) or applications filed on Form H–(e)3 require four additional copies of the application. The copies should be labeled, respectively, "Department of Justice Copy," "Comptroller Copy," "Federal Reserve Copy," and "FDIC Copy".

(2) Any acquiror filing a notice pursuant to § 574.3(b) of this chapter shall file three additional copies of the notice, and shall label such copies "FDIC Copy," "Comptroller Copy," and "Federal Reserve Copy," respectively. In addition, any acquiror filing a notice pursuant to § 574.3(b) of this chapter with respect to acquisition of a state-chartered association shall file an additional copy of the notice with the OTS labeled "State Supervisor Copy."

(3) In the case of an application filed on Form H–(e)2 (other than an application pursuant to § 574.3(c)(1)(iv) of this chapter), the applicant shall file one additional copy of the application with the OTS and shall label such copy "Department of Justice Copy."

§ 516.2 Applications processing guidelines.

(a) *General.* (1) To ensure the timely processing of applications and notices, the OTS hereby sets forth guidelines for the processing of completed applications and notices (hereinafter collectively referred to as "applications") filed with the OTS. This section does not apply to applications or requests related to transactions pursuant to section 13 (c) or (k) of the Federal Deposit Insurance Act, 12 U.S.C. 1823 (c), (k); or requests submitted in connection with cease-and-desist orders, temporary cease-and-desist orders, removal and/or prohibition orders, temporary suspension orders, supervisory agreements or directives, consent merger agreements, or documents negotiated in settlement of litigation (including requests for termination or modification of, or for approval pursuant to, such orders, agreements, or documents), or similar litigation or enforcement matters. Requests submitted in connection with cease-and-desist orders, removal and/or prohibition orders, supervisory agreements or directives, consent merger agreements, and other documents negotiated in settlement of litigation ("enforcement documents") are not covered by this section. However, the fact that a regulation involving an application may be mentioned in an enforcement document does not mean that this section does not apply to that application. Requests to engage in activities that are specifically restricted by enforcement documents and requests for termination or modification of such documents are not covered by this section. Applications submitted pursuant to a regulatory requirement that the prior approval of the OTS be obtained before engaging in a proposed activity, however, are covered, whether or not mentioned in an enforcement document. If the application or request is unique to the enforcement document, then it is not covered by this section.

(2) Requests for reconsideration, modification, or appeal of final agency

actions of the OTS are not covered by this section. In addition, where other regulations of the OTS establish specific procedures for processing of applications or set forth specific time periods for automatic approval of applications unless such applications are disapproved or objections are raised, the provisions of those regulations are controlling with respect to the matters to which they pertain. Where a regulation sets forth a procedure for processing an application but does not contain a time period pursuant to which such application is to be processed, the application will be processed under the procedure established by the regulation, but will be subject to the time periods contained in this section.

(b) *Applications submitted for review.* An application submitted to the OTS for processing shall be submitted on the designated form and shall comply with all applicable regulations and guidelines governing the filing of such applications. The OTS is required to notify an applicant in writing within 5 business days of receipt of an application.

(c) *Accepting applications for processing.* (1) Within 30 calendar days of receipt of a properly submitted application for processing, the OTS shall:

(i) Request in writing any additional information necessary to complete the application;

(ii) Deem the application to be complete; or

(iii) Decline to further process the application if it is deemed by the OTS to be materially deficient and/or substantially incomplete.

Failure by the OTS to act as described in paragraph (c)(1)(i), (c)(1)(ii), or (c)(1)(iii) of this section within 30 calendar days of receipt of an application for processing shall result in the filed application's being deemed complete, thereby commencing the period for review. If an application includes a request for a waiver of an application requirement that certain information be supplied, the waiver request shall be deemed granted, unless within 30 calendar days of receipt of a properly submitted application for processing, the OTS requests in writing additional information about the waiver request, or denies the waiver request in writing.

(2) Failure by an applicant to respond fully to a written request by the OTS for additional information within 30 calendar days of the date of such request may be deemed to constitute withdrawal of the application or may be treated as grounds for denial or disapproval of the application. If an application is deemed withdrawn, the application may be resubmitted for processing, but it will be deemed a new filing under the applicable statute or regulation.

(3) An applicant may request in writing a brief extension of the 30-day period for responding to a request for additional information described in paragraph (c)(2) of this section prior to the expiration of the 30-day time period. The OTS, at its option, may grant an applicant a limited extension of time in writing. Failure by an applicant to respond fully to a written request for additional information by the expiration of the extended period permitted by the OTS may be deemed to constitute withdrawal of the application or may be treated as grounds for denial or disapproval of the application.

(4) The period for review by the OTS of an application will commence on the date that the application is deemed complete. The OTS shall notify an applicant in writing as to whether the application is deemed complete within 15 calendar days after the timely filing of any additional information furnished in response to any initial or subsequent request by the OTS for additional information. If the OTS fails to notify an applicant in writing within such time, the application shall be deemed to be complete as of the expiration of such 15-day period. If additional information furnished in response to a written request by the OTS for additional information includes a request for a waiver of an application requirement that certain information be supplied, the waiver request shall be deemed granted, unless within 15 calendar days after the timely filing of such additional information the OTS:

(i) Request in writing additional information about the waiver request; or

(ii) Denies the waiver request in writing.

(5) After additional information has been requested and supplied, the OTS may request additional information only with respect to matters derived from or prompted by information already furnished, or information of a material nature that was not reasonably available from the applicant at the time of the application, was concealed, or pertains to developments subsequent to the time of the OTS's initial request for additional information. With regard to information of a material nature that was not reasonably available from the applicant, was concealed at the time an application was deemed to be complete, or pertains to developments subsequent to the time an application was deemed to be complete, the OTS may request in writing such additional information as it considers necessary and, at its option, may deem the application not to be complete until such additional information is furnished. Upon receipt of such additional information, the OTS shall:

(i) Request in writing further additional information to complete the application;

(ii) Deem the application to be complete and commence a new review period of the completed application; or

(iii) Deem the application to be materially deficient and/or substantially incomplete and return it to the applicant. In the case of an application that raises a significant issue of policy or law, actions taken by the Region shall not commence any of the periods for review of a completed application described in paragraph (d) of this section.

(6) Where a regulation prescribes a procedure for submission of protests to an application and a protest is filed, the automatic approval time frames specified herein shall be temporarily suspended until a record sufficient to support a determination on the protest is developed.

(7) The OTS, at its discretion, may deem an application to be materially deficient and/or substantially incomplete in the event that the applicant or an affiliate of the applicant is or becomes subject to an investigation, examination, administrative proceeding by a federal or state or municipal court, department, agency or commission or other governmental entity, or a self-regulatory trade or professional organization, or intra-governmental inquiry, that is pertinent to the standards applicable to the OTS's evaluation of the application or relates to a determination the OTS is required to make in connection with the application under the applicable statute or regulation.

(d) *Failure by the OTS to approve or deny an application or to disapprove a notice.* (1) If, upon expiration of the applicable period for review of any complete application to which this section applies, or any extension of such period, the OTS has failed to approve or deny such application (or, in the case of a notice, to disapprove such notice), the application shall, without further action, be deemed to be approved, or, in the case of a notice, not disapproved by the OTS. For purposes of the previous sentence, the period for review of all applications shall be 60 calendar days beginning from the application's deemed complete date, including any application

or notice submitted pursuant to part 574 of this chapter.

(2) In the event that more than one application is being submitted in connection with a proposed transaction or other action, the applicable period for review of all such applications shall be the review period for the application having the longest period for review, subject to any applicable statutory periods.

(e) *Extension of time for review.* The period for review of an application deemed to be complete may be extended by the OTS for 30 days beyond the time period for review set forth in paragraph (d) of this section. The OTS shall notify an applicant at least 10 days prior to the expiration of the period for review of a complete application that such review period is being extended for 30 days and shall state the general reason(s) therefor.

(f) *Extension of time for OTS's review of applications raising significant issues of law or policy.* In those situations in which an application presents a significant issue of law or policy, the applicable period for review of such application also may be extended by the OTS beyond the time period for review set forth in paragraph (d) of this section or any extension thereof pursuant to paragraph (e) of this section until such time as the OTS acts upon the application. In such cases, written notice shall be provided to an applicant not later than the expiration of the time period set forth in paragraph (d) of this section or any extension thereof pursuant to paragraph (e) of this section that the period for review is being extended in accordance with this paragraph (f), which notice shall also state the general reason(s) therefor.

§ 516.3 Definitions.

(a) *Expedited treatment.* (1) A savings association is eligible for expedited treatment by the OTS if all of the following conditions exist:

(i) The savings association has a composite MACRO rating of 1 or 2;

(ii) The savings association has a Community Reinvestment Act (CRA) rating of satisfactory or better;

(iii) The savings association has a Compliance rating of 1 or 2;

(iv) The savings association is meeting all of its capital requirements under part 567 of this chapter; and

(v) The savings association has not been notified by supervisory personnel that it is a problem association or an association in troubled condition.

(2) Where specified by regulation, a savings association that qualifies for expedited treatment under paragraph (a)(1) of this section may engage in activities upon filing a notice with the OTS together with any necessary certifications. For these activities, a notice will be all that is required and an association may engage in the activity unless the OTS objects within 30 days. Such notices are deemed to be applications for purposes of statutory and regulatory references to "applications."

(3) The OTS may require complete applications from savings associations that otherwise qualify for expedited treatment in situations raising supervisory concern or a significant issue of law or policy and may request additional information from such associations when necessary. In these circumstances, the OTS may determine that such applications no longer qualify for expedited treatment.

(b) *Standard treatment.* (1) A savings association will receive standard treatment if any of the following conditions exist:

(i) The savings association has a composite MACRO rating of 3, 4 or 5;

(ii) The savings association has a less than satisfactory CRA rating;

(iii) The savings association has a Compliance rating of 3, 4, or 5;

(iv) The savings association has inadequate capital, including failing any one of its capital requirements under part 567 of this chapter; or

(v) The savings association has otherwise been notified by supervisory personnel as being a problem association or an association in troubled condition.

(2) Savings associations receiving standard treatment shall be required to file complete applications under the applicable regulations of this chapter with the OTS. Such applications will be denied unless the association affirmatively demonstrates how the application will clearly improve its financial and/or managerial condition or improve its compliance with the CRA or other consumer-related statutes without adversely affecting its financial or managerial resources.

(c) *MACRO rating.* A savings association's MACRO rating is its Management, Asset Quality, Capital Adequacy, Risk Management, and Operating Results rating as of the most recent rating update (as determined either on-site or off-site by the most recent examination) of which the savings association has been notified in writing.

(d) *CRA rating.* Through June 30, 1989, savings associations received one of five CRA ratings: Outstanding (1), Good (2), Satisfactory (3), Needs Improvement (4), or Unsatisfactory (5). For examinations begun between July 1, 1989 and June 30, 1990, savings associations received numerical ratings of 1 through 5. During this period, ratings of 1 and 2 were considered satisfactory or better and 3, 4, and 5 were less than satisfactory. Savings associations examined for CRA performance after July 1, 1990 receive one of four ratings: Outstanding, Satisfactory, Needs to Improve, or Substantial Noncompliance.

(e) *Compliance rating.* A savings association's Compliance rating is determined pursuant to the OTS Compliance Rating System which measures an association's compliance with civil rights, consumer protection, and public interest regulations, including the Bank Secrecy Act, Bank Protection Act, Equal Employment Opportunity, Economic Sanctions, and Advertising.

SUBCHAPTER C—REGULATIONS FOR FEDERAL SAVINGS ASSOCIATIONS

PART 543—[AMENDED]

7. The authority citation for part 543 continues to read as follows:

Authority: Sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 10, as added by sec. 301, 103 Stat. 318 (12 U.S.C. 1467a); sec. 802, 91 Stat. 1147, as amended (12 U.S.C. 2901 *et seq.*).

§ 543.1 [Amended]

8. Section 543.1 is amended by removing the words "District Director" and "District Director, or his or her designee" wherever they appear in paragraph (b) and by inserting in lieu thereof, the words "OTS"; and by removing the words "his or her objection" contained in the third sentence of paragraph (b) and adding in lieu thereof the words "its objection".

9. Section 543.2 is amended as follows:

a. By revising paragraph (a) to read as set forth below;

b. By removing and reserving paragraph (b);

c. By removing the phrase "District Director, or his or her designee" wherever it appears in paragraph (d) and by inserting in lieu thereof the word "OTS";

d. By revising the last sentence of paragraph (d)(3);

e. By removing the words "Director's office" where they appear in paragraph (d)(4) and inserting the word "OTS";

f. By removing the word "Director" and the phrases "District Director or his or her designee", "District Director, or his or her designee", and "District Director, his or her designee, or any other person designated by the Director" wherever they appear in paragraphs (e)

and (f) and by inserting in lieu thereof the word "OTS";

g. By removing the introductory text of paragraph (g) and revising the introductory text of paragraph (g)(1) to read as set forth below; and

h. By removing paragraph (h)(3).

The revised text reads as follows:

§ 543.2 Application for permission to organize.

(a) *General.* Recommendations by employees of the OTS regarding applications for permission to organize a Federal savings association are privileged, confidential, and subject to § 510.5 (b) and (c) of this chapter.

(b) [Reserved]

* * * * *

(d) *Public notice and inspection.* * * *

* * * * *

(3) * * * The OTS may also give notice to any other person believed to have an interest in the application.

* * * * *

(g) *Approval.* (1) Factors that will be considered are:

* * * * *

10. Section 543.8(b) is revised to read as follows:

§ 543.8 Conversion of State mutual charter to Federal charter.

* * * * *

(b) Recommendations regarding applications for issuance of Federal charters are privileged, confidential and subject to § 510.5 (b) and c) of this chapter.

11. Section 543.9 is amended by revising paragraph (a); and by removing the phrase "District Director" and the phrase "Office" wherever they appear in paragraph (c) and adding in lieu thereof, the phrase "OTS" to read as follows:

§ 543.9 Application for conversion to Federal mutual charter.

(a) *Filing.* Any state savings and loan association type or state savings bank type institution desiring to convert into a Federal savings association shall, after approval by its board of directors, file an application on forms obtained from the OTS. The applicant shall submit any financial statements or other information the OTS may require.

* * * * *

PART 544—[AMENDED]

12. The authority citation for part 544 continues to read as follows:

Authority: Sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 10, as added by sec. 301, 103 Stat. 318 (12 U.S.C. 1467a); sec. 802, 91 Stat. 1147, as amended (12 U.S.C. 2901 *et seq.*).

13. Section 544.2 is amended by revising paragraph (a), the introductory text of paragraph (b), and the second sentence of paragraph (c), and by removing paragraphs (d) and (e) to read as follows:

§ 544.2 Charter amendments.

(a) *General.* In order to adopt a charter amendment, a Federal mutual savings association must comply with the following requirements:

(1) *Board of directors approval.* The board of directors of the association must adopt a resolution proposing the charter amendment that states the text of such amendment;

(2) *Form of filing*—(i) *Application requirement.* If the proposed charter amendment would: Render more difficult or discourage a merger, proxy contest, the assumption of control by a mutual account holder of the association, or the removal of incumbent management; or involve a significant issue of law or policy; then, the association shall file the proposed amendment, along with a certification that the proposed amendment is permissible under all applicable laws, rules or regulations, and obtain the prior approval of the OTS.

(ii) *Notice requirement.* If the proposed charter amendment does not involve a provision that would be covered by paragraph (a)(2)(i) of this section, then the association shall submit the proposed amendment to the OTS along with a certification that the proposed amendment is permissible under all applicable laws, rules or regulations, at least 30 days prior to the effective date of the charter amendment.

(b) *Approval.* Any charter amendment filed pursuant to paragraph (a)(2)(ii) of this section shall automatically be approved 30 days from the date of filing of such amendment, provided that the association follows the requirements of its charter in adopting such amendment. This automatic approval does not apply if, prior to the expiration of such 30-day period, the OTS notifies the association that such amendment is rejected or that such amendment is deemed to be filed under the provisions of paragraph (a)(2)(i) of this section. In addition, the following charter amendments, including the adoption of the Federal mutual charter as set forth in § 544.1 of this part, shall be approved at the time of filing with the OTS, provided the association follows the requirements of its charter in adopting such amendments:

* * * * *

(c) *Reissuance of charter.* * * * Such requests for reissuance shall contain signatures required under § 544.1 of this part, together with such supporting documents as may be needed to demonstrate that the amendments were properly adopted. * * *

14. Section 544.3 is amended by revising the text preceding the petition to read as follows:

§ 544.3 Adoption of new Federal charter by a Federal savings association.

If the board of directors of a Federal mutual savings association proposes to amend its charter to read in the form of any other Federal mutual savings association charter, the amendment may be approved by a majority vote of members present at any duly called regular or special meeting of members. In the case of a Federal stock association, the board of directors that proposes to amend its charter to read in the form of any other Federal stock association charter, the amendment may be approved by the stockholders by a majority of the total votes eligible to be cast at a legal meeting. In either case, after such vote, the association shall submit the following petition together with any requested change in the association's title or location of home office, and the OTS thereafter will issue a charter in the form sought, upon approval by the OTS of a change in such name or location:

* * * * *

15. Section 544.5 is amended by revising paragraphs (a), (c), and (d) to read as follows:

§ 544.5 Federal mutual savings association bylaws.

(a) *General.* A Federal mutual savings association shall operate under bylaws that contain provisions that comply with all requirements specified by the OTS in this section and that are not otherwise inconsistent with the provisions of this section, the association's charter, and all other applicable laws, rules, and regulations. Bylaws may be adopted, amended or repealed by a majority of the association's board of directors. *Provided that,* a bylaw provision inconsistent with the provisions of this section may be adopted with the approval of the OTS.

* * * * *

(c) *Form of Filing*—(1) *Application requirement.* Any bylaw amendment shall be submitted to the OTS along with a certification that the proposed amendment is permissible under all applicable laws, rules, or regulations if it would:

(i) Render more difficult or discourage a merger, proxy contest, the assumption of control by a mutual account holder of the association, or the removal of incumbent management;

(ii) Involve a significant issue of law or policy; or

(iii) Be inconsistent with the requirements of this section or with applicable laws, rules, regulations, or the association's charter.

For purposes of this paragraph (c), bylaw provisions that adopt the language of the model bylaws set forth at the appendix to this part shall be deemed to comply with the requirements of this section.

(2) *Notice requirement.* If the proposed bylaw amendment does not involve a provision that would be covered by paragraph (c)(1) of this section, then the association shall submit the amendment to the OTS, together with a certification that such amendment is permissible under all applicable laws, rules or regulations, at least 30 days prior to the date the bylaw amendment is to be adopted by the association.

(d) *Effectiveness.* Any bylaw amendment filed pursuant to paragraph (c)(2) of this section shall automatically be effective 30 days from the date of filing of such amendment, provided that the association follows the requirements of its charter and bylaws in adopting such amendment. This automatic effective date does not apply if, prior to the expiration of such 30-day period, the OTS notifies the association that such amendment is rejected or that such amendment raises a significant issue of law or policy.

PART 545—[AMENDED]

16. The authority citation for part 545 continues to read as follows:

Authority: Sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 18, 64 Stat. 891, as amended by sec. 221, 103 Stat. 267 (12 U.S.C. 1828).

17. Section 545.74 is amended by revising paragraph (b)(7); by revising the introductory text of paragraph (c); by removing the phrase "District Director or his or her designee" in paragraph (c)(4)(i)(D) and by inserting, in lieu thereof, the phrase "OTS"; by revising paragraphs (c)(3)(vi), (c)(4)(iii), and (e); and by removing paragraphs (f) and (g) to read as follows:

§ 545.74 Service corporations.

* * * * *

(b) *General.* * * *

* * * * *

(7) Except as provided by 12 U.S.C. 1828(m)(5), the association shall notify the FDIC and the OTS not less than 30 days prior to the establishment, or acquisition of any service corporation, and not less than 30 days prior to the commencement of any new activity through a service corporation. This notice requirement is in addition to any application that may be required under paragraph (c) of this section.

(c) *Permitted activities.* A service corporation in which a Federal savings association may invest is permitted to engage in such activities reasonably related to the activities of Federal savings associations as the OTS may approve. Applications for approval to engage in such activities shall be made in accordance with § 516.2 of this chapter. In addition, a service corporation may engage in the following activities without prior OTS approval, provided the notice to the FDIC and the OTS required by paragraph (b)(7) of this section has been given:

* * * * *

(3) *Real estate services.* * * *

* * * * *

(vi) Acquiring real estate for prompt development or subdivision, for construction of improvements, for resale or leasing to others for such construction, or for use as manufactured home sites: *Provided*, That any development, subdivision, and construction of improvements is to be completed within eleven years after acquisition of the real estate, unless such period is extended by the OTS upon written application by the service corporation, which application shall be supported by information evidencing that the service corporation will proceed or has proceeded in accordance with a prudent development plan and has not caused undue delay in the completion of construction: and *Provided further*, That acquisition of an option to purchase is not an acquisition for the purpose of determining the periods provided for in paragraph (c)(3)(vi) of this section;

* * * * *

(4) *Securities brokerage services.* * * *

* * * * *

(iii) Any association that intends to acquire or establish a service corporation to engage in preapproved securities brokerage activities shall furnish to the OTS at least 30 days prior to the commencement of operations, written notice containing a full description of the brokerage services to be provided and a certification from the board of directors of such association that such services will be in compliance with all of the requirements of paragraph (c)(4) of this section. In addition, the association shall retain complete records of all executed contractual agreements and memoranda between the service corporation and broker-dealers, investment advisors, the parent savings association, and their affiliates, pro forma income statements for a three year period, any required professional opinions, and a reasoned legal opinion from counsel that the securities brokerage services qualify as preapproved under paragraph (c)(4) of this section.

* * * * *

(e) *Disposal of investment.* Whenever a service corporation, including any subsidiary thereof, engages in an activity that is not permissible for, or exceeds limitations on, a service corporation in which a Federal savings association may invest, or whenever the capital stock ownership requirements of this section are not met, a Federal savings association having an interest in the service corporation, including any subsidiary thereof, shall dispose of its investment promptly unless, within 90 days after the OTS mails written notice to the association, the impermissible activity is discontinued, the limitation is complied with, or the capital stock ownership requirements are met.

18. Section 545.77 is revised to read as follows:

§ 545.77 Real estate for office and related facilities.

A Federal savings association may invest in real estate (improved or unimproved) to be used for office and related faclities of the association, or for such office and related facilities and for rental or sale, if such investment is made and maintained under a prudent program of property acquisition to meet the Federal savings association's present needs or its reasonable future needs for office and related facilities. A Federal savings association shall not make an investment that would cause the outstanding aggregate book value of all such investments (including investments under § 545.74(c)(3)(viii) of this part) to exceed its total capital.

19. Section 545.82 is amended by revising the heading of paragraph (f), paragraph (f)(1) introductory text, and paragraph (f)(3) to read as follows:

§ 545.82 Finance subsidiaries.

* * * * *

(f) *Notification to the OTS.* (1) Prior to the establishment of any finance subsidiary, the transfer of any additional assets to an existing finance subsidiary, or the issuance of any additional securities by an existing

finance subsidiary, the board of directors of the parent Federal savings association, or a duly authorized executive committee thereof, shall submit written notification to the OTS specifying:

* * * * *

(3) A Federal savings association eligible for expedited treatment pursuant to § 561.3(a) of this chapter may establish a finance subsidiary, transfer assets to an existing finance subsidiary, or issue additional securities through an existing finance subsidiary without prior approval subject to the procedures of paragraphs (f)(1) and (f)(2) of this section. A Federal savings association subject to standard treatment as provided in § 516.3(b) of this chapter, shall not establish a finance subsidiary, transfer assets to an existing finance subsidiary, or issue additional securities through an existing finance subsidiary without the prior written approval of the OTS. To obtain the written approval of the OTS, the board of directors of the Federal savings association, or an authorized executive committee thereof, shall submit a written application containing the information specified in paragraph (f)(1) of this section, as well as any additional information required by the OTS.

* * * * *

20. Section 545.92 is amended by revising paragraphs (a), (b), (c), (e), (f), and (h)(1), by removing paragraph (h)(3), and by adding a new paragraph (j) to read as follows:

§ 545.92 Branch offices.

(a) *General.* A branch office of a Federal savings association is any office other than its home office, agency office, data processing or administrative office, or a remote service unit. Except as limited by this section, any business of a Federal savings association may be transacted at a branch office.

(b) *Eligibility.* Federal savings associations eligible for expedited treatment pursuant to section 516.3(a) of this chapter may establish a branch office without prior approval subject to the procedures in paragraph (f) of this section. A Federal savings association subject to standard treatment as defined in § 516.3(b) of this chapter shall not establish a branch office without prior approval subject to the procedures in paragraph (e) of this section.

(c) *Application form; filing; completion; supervisory objection.* Applicants shall obtain application and notice forms and related instructions from the OTS.

* * * * *

(e) *Approval by the Office.* (1) The OTS shall approve an application only if the overall policies, condition, and operation of the applicant afford no basis for supervisory objection and the proposed branch will open within twelve months of approval unless otherwise allowed by the OTS. In considering whether to approve an application, the OTS will assess and take into account an association's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, pursuant to part 563e of this chapter; assessment of an association's record of performance may be the basis for denying an application.

(2) An application shall be deemed to be approved 30 days after notification that the application is complete, if no substantial protest based on part 563e of this chapter has been filed and the applicant has not been notified that objection has been taken on grounds set forth in paragraph (e)(1) of this section.

(f) *Notice requirements.* Federal savings associations that qualify for expedited treatment must comply with § 556.5 of this subchapter and submit the notice required by § 516.3(a) of this chapter within three days of the publication of notice pursuant to paragraph (j) of this section. The notice shall include the proposed office location. Such notice shall be deemed to be approved 30 days after its filing with the OTS unless a substantial protest has been filed or the savings association is notified that objection has been taken. If a substantial protest based on part 563e of this chapter has been filed, a savings association may not open a branch office until the OTS provides notification of its approval.

* * * * *

(h) *Maintenance of branch office after conversion, consolidation, purchase of bulk assets, merger or purchase from receiver.* (1) An existing association which converts to a Federal savings association may maintain an existing office, and a Federal savings association that acquires offices through consolidation, purchase of bulk assets, merger or purchase from the receiver of an association may maintain any acquired office, except to the extent the approval by the OTS of the conversion, consolidation, merger, or purchase specifies otherwise.

* * * * *

(j) *Publication.* Notice shall be published in a newspaper printed in the English language and having a general circulation in the community in which the home office of the association is located and in the community to be served. If it is determined that the primary language of a significant number of adult residents of either community is a language other than English, the institution will be required to publish the notification simultaneously in the appropriate language. Notice shall be made in substantially the following form:

Notice of Establishment of a Branch Office or Change of Location of an Office

This is to inform the public that under 12 CFR 545.92 or 12 CFR 545.95 of the Regulations of the Office of Thrift Supervision ("OTS") [Association Corporate Title, City, Town, State and Zip Code] [has filed/intends to file] [an] [application/notice] with the OTS for permission to establish a branch office to be located [address of branch office].

Anyone may write in favor of or protest against the [application/notice] within 10 days of the publication of this notice. An additional 7 days to submit comments may be obtained if written request is received by the OTS within this 10-day period. Three copies of all submissions must be sent to the Regional Director, [giving name and address] of the Office of Thrift Supervision Regional Office where the [application/notice] is being filed.

Anyone sending a protest deemed substantial by the OTS may request an oral argument by submitting a written request to the OTS during the 10-day period. For a protest to be considered substantial, it must be written and received on time, the reasons for the protest must be consistent with the regulatory basis for denial of the establishment of a branch office and the protest must be supported by the information specified in 12 CFR 543.2(e)(4).

You may look at the notice and all comments filed at the OTS Regional Office unless any such materials are exempt by law from disclosure. If you have any questions concerning these procedures, contact the OTS Regional Office.

§ 545.93 [Amended]

21. Section 545.93 is amended by removing the phrase "District Director or his or her designee" where it appears in paragraphs (b) and (c) and by inserting in lieu thereof the word "OTS".

§ 545.94 [Removed]

22. Section 545.94 is removed and reserved.

23. Section 545.95 is revised to read as follows:

§ 545.95 Change of office location and redesignation of offices.

(a) *Eligibility.* A Federal savings association eligible for expedited treatment pursuant to § 516.3(a) of this chapter may change the permanent location of its home office or any approved branch office, or redesignate a home or branch office subject to the procedures set out in § 545.92(f) of this part. A Federal savings association

subject to standard treatment pursuant to § 516.3(b) of this chapter may change the permanent location of its home office or any approved branch office, or redesignate a home or branch office subject to the procedures set out in §§ 545.92 (c), (d), and (e) of this part.

(b) *Processing of application.* (1) Processing of an application for a change of office location or redesignation of a home or branch office shall follow the procedures set forth in § 545.92 of this part, except that:

(i) The applicant shall publish the required newspaper notice of application in the applicant's home office community, the community to be served by the new office, and the community where the office is to be closed or the home office is to be redesignated as a branch; and

(ii) The applicant shall post notice of the application for seventeen days from the date of first publication in a prominent location in the office to be closed or redesignated.

(2) The OTS may approve an amendment to an association's charter in connection with approval of a home office relocation or redesignation under this section.

(c) *Short-distance relocations.* (1) Notwithstanding paragraph (a) of this section, an association may change the permanent location of a home or branch office, without applying for approval by the OTS, to a site within the market area and short-distance relocation area of the office site that has been approved in accordance with § 545.92 of this part or paragraph (a) of this section. The short-distance relocation area of an office site is:

(i) The area within a 1,000-foot radius of the site if it is located within a central city of a Metropolitan Statistical Area ("MSA") designated by the U.S. Department of Commerce;

(ii) The area within a one-mile radius of the site if it is located within an MSA designated by the U.S. Department of Commerce but not within a central city; or

(iii) The area within a two-mile radius of the site if it is not located within a MSA.

(2) An association shall notify the OTS in writing at least 30 days before such an office relocation and may proceed with the relocation unless, within 30 days of receipt of the notice, the OTS notifies the association that the relocation does not satisfy the criteria set forth in the first sentence of paragraph (c)(1) of this section, in which case the association must file an application and obtain approval by the OTS in accordance with paragraph (b) of this section.

24. Section 545.96 is amended by revising paragraph (b), and by removing paragraph (d) to read as follows:

§ 545.96 Agency.

* * * * *

(b) *Additional services.* Except for payment on savings accounts, offering of any services not listed in paragraph (a) of this section may be approved by the OTS.

* * * * *

PART 546—[AMENDED]

25. The authority citation for part 546 continues to read as follows:

Authority: Sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 3 as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 10, as added by sec. 301, 103 Stat. 318 (12 U.S.C. 1467a); sec. 802, 91 Stat. 1147, as amended (12 U.S.C. 2901 *et seq.*).

§ 546.2 [Amended]

26. Section 546.2 is amended by removing the phrases "Director, or any person(s) who have delegated authority to approve the merger on behalf of the Director" where it appears in paragraph (d)(2) and "Director, or any person(s) who have delegated authority to approve or deny a merger on behalf of the Director" where it appears in paragraph (e), and by inserting, in lieu thereof, the word "OTS".

27. Section 546.4 is amended by revising paragraph (c) and the concluding text of the section to read as follows:

§ 546.4 Voluntary dissolution.

* * * * *

(c) Dissolution in a manner proposed by the directors which they consider best for all concerned.

The plan, and a statement of reasons for proposing dissolution and for proposing the plan, shall be submitted to the OTS for approval. The OTS will approve the plan if the OTS believes dissolution is advisable and the plan best for all concerned, but if the OTS considers the plan inadvisable, the OTS may either make recommendations to the association concerning the plan or disapprove it. When the plan is approved by the association's board of directors and by the OTS, it shall be submitted to the association's members at a duly called meeting and, when approved by a majority of votes cast at that meeting, shall become effective. After dissolution in accordance with the plan, a certificate evidencing dissolution, supported by such evidence as the OTS may require, shall immediately be filed with the OTS. When the OTS receives such evidence satisfactory to the OTS, it will terminate the corporate existence of the dissolved association and the association's charter shall thereby be canceled.

PART 550—[AMENDED]

27a. The authority citation for part 550 continues to read as follows:

Authority: Sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a), sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464), sec. 501, 94 Stat. 161, as amended (12 U.S.C 1735f-7).

27b. Section 550.2(a) is amended by removing the number "500.32(c)(5)" and inserting in lieu thereof the number "516.1(c)".

PART 552—[AMENDED]

28. The authority citation for part 552 continues to read as follows:

Authority: Sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 10, as added by sec. 301, 103 Stat. 318 (12 U.S.C. 1467a).

29. Section 552.2-1 is amended by revising the introductory text of paragraphs (b) and (b)(1) and paragraph (i) to read as follows:

§ 552.2-1 Procedure for organization of a Federal stock association.

* * * * *

(b) *Conditions of approval.* The OTS will decide all applications for permission to organize a Federal stock association.

(1) Factors that will be considered on all applications for permission to organize a Federal stock association are:

* * * * *

(i) *Failure of completion.* If organization of a Federal stock association is not completed within six months after the OTS approves the application, or within such additional period as the OTS for good cause may grant, the charter shall become null and void and all subscriptions to capital stock shall be returned.

§ 552.2-2 [Amended]

30. Section 552.2-2 is amended by removing the words "or its delegate" wherever it appears in paragraph (b); by removing the phrase "the Director or his or her designee in his or her discretion" where it appears in paragraph (c) and by inserting in lieu thereof the word "OTS"; and by removing paragraph (d).

31. Section 552.4 is amended by revising paragraph (a) and the

introductory text of paragraph (b); by removing the phrase "opinion, acceptable to the Office, of counsel" where it appears in paragraph (c) and inserting in lieu thereof the phrase "opinion of counsel, acceptable to the OTS"; by removing the last sentence of paragraph (d); and by removing paragraphs (e) and (f) to read as follows:

§ 552.4 Charter amendments.

(a) *General.* In order to adopt a charter amendment, a Federal stock association must comply with the following requirements:

(1) *Board of directors approval.* The board of directors of the association must adopt a resolution proposing the charter amendment that states the text of such amendment; and

(2) *Form of filing*—(i) *Application requirement.* If the proposed charter amendment would render more difficult or discourage a merger, tender offer, or proxy contest, the assumption of control by a holder of a large block of the association's stock, the removal of incumbent management, or involve a significant issue of law or policy, the association shall file the proposed amendment with a certification that the proposed amendment is permissible under all applicable laws, rules or regulations and shall obtain the prior approval of the OTS; and

(ii) *Notice requirement.* If the proposed charter amendment does not involve a provision that would be covered by paragraph (a)(2)(i) of this section, then the association shall submit the proposed amendment to the OTS, together with a certification that the amendment is permissible under all applicable laws, rules or regulations, at least 30 days prior to the date the proposed charter amendment is to be mailed for consideration by the association's shareholders.

(b) *Approval.* Any charter amendment filed pursuant to paragraph (a)(2)(ii) of this section shall automatically be approved 30 days from the date of filing of such amendment, provided that the association follows the requirements of its charter in adopting such amendment, unless prior to the expiration of such 30-day period the OTS notifies the association that such amendment is rejected or that such amendment is deemed to be filed under the provisions of paragraph (a)(2)(i) of this section. In addition, the following charter amendments, including the adoption of the Federal stock charter as set forth in § 552.3 of this part, shall be approved at the time of filing with the OTS, provided the association follows the requirements of its charter in adopting such amendments:

* * * * *

32. Section 552.5 is revised to read as follows:

§ 552.5 Bylaws.

(a) *General.* At its first organizational meeting, the board of directors of a Federal stock association shall adopt a set of bylaws for the administration and regulation of its affairs. Bylaws may be adopted, amended or repealed by either a majority of the shareholders or a majority of the board of directors. The bylaws shall contain sufficient provisions to govern the association in accordance with the requirements of §§ 552.6, 552.6–1, 552.6–2, 552.6–3, and 552.6–4 of this part and shall not contain any provision that is inconsistent with those sections or with applicable laws, rules, regulations or the association's charter, except that a bylaw provision inconsistent with §§ 552.6, 552.6–1, 552.6–3, and 552.6–4 of this part may be adopted with the approval of the OTS.

(b) *Form of Filing*—(1) *Application requirement.* Any bylaw amendment shall be submitted to the OTS, for approval, together with a certification that the proposed amendment is permissible under all applicable laws, rules or regulations if it would:

(i) Render more difficult or discourage a merger, tender offer, or proxy contest, the assumption of control by a holder of a large block of the association's stock, or the removal of incumbent management; or

(ii) Be inconsistent with §§ 552.6, 552.6–1, 552.6–2, 552.6–3 and 552.6–4, with applicable laws, rules, regulations or the association's charter or involve a significant issue of law or policy.

Bylaw provisions that adopt the language of the model bylaws set forth at the appendix to this part shall be deemed to comply with the requirements of this section.

(2) *Notice requirement.* If the proposed bylaw amendment does not involve a provision that would be covered by paragraph (b)(1) of this section, then the association shall submit the amendment to the OTS, together with a certification that the proposed amendment is permissible under all applicable laws, rules or regulations, at least 30 days prior to the date the bylaw amendment is to be adopted by the association.

(c) *Effectiveness.* Any bylaw amendment filed pursuant to paragraph (b)(2) of this section shall automatically be effective 30 days from the date of filing of such amendment, provided that the association follows the requirements of its charter and bylaws in adopting such amendment, unless prior to the expiration of such 30-day period the OTS notifies the association that such amendment is rejected or that such amendment requires an application to be filed pursuant to paragraph (b)(1) of this section.

33. Section 552.6–3 is amended by removing the first three sentences of paragraph (a) and adding two new sentences in their place to read as follows:

§ 552.6–3 Certificates for shares and their transfer.

(a) *Certificates for shares.* Certificates representing shares of capital stock of the association shall be in such form as shall be determined by the board of directors and approved by the OTS. The certificates shall be signed by the chief executive officer or by any other officer of the association authorized by the board of directors, attested by the secretary or an assistant secretary, and sealed with the corporate seal or a facsimile thereof. * * *

* * * * *

34. Section 552.10 is revised to read as follows:

§ 552.10 Annual reports to stockholders.

A Federal stock association not wholly-owned by a holding company shall, within ninety days after the end of its fiscal year, mail to each of its stockholders entitled to vote at its annual meeting an annual report containing financial statements that satisfy the requirements of rule 14a–3 under the Securities Exchange Act of 1934. (17 CFR 240.14a–3). Concurrently with such mailing a certification of such mailing signed by the chairman of the board, the president or a vice president of the association, together with copies of the report, shall be transmitted by the association to the OTS.

35. Section 552.13 is amended by revising paragraph (i) and by removing paragraph (m) to read as follows:

§ 552.13 Combinations involving Federal stock associations.

* * * * *

(i) *Disclosure.* The OTS may require, in connection with a combination under this section, such disclosure of information as the OTS deems necessary or desirable for the protection of investors in any of the constituent associations.

* * * * *

SUBCHAPTER D—REGULATIONS APPLICABLE TO ALL SAVINGS ASSOCIATIONS

PART 563—[AMENDED]

36. The authority citation for part 563 continues to read as follows:

Authority: Sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 10, as added by sec. 301, 103 Stat. 318 (12 U.S.C. 1467a); sec. 11, as added by sec. 301, 103 Stat. 342 (12 U.S.C. 1468); sec. 18, 64 Stat. 891, as amended by sec. 321, 103 Stat. 267 (12 U.S.C. 1828); sec. 1204, 101 Stat. 662 (12 U.S.C. 3806); sec. 202, 87 Stat. 982, as amended (42 U.S.C. 4106).

37. Section 563.1 is revised to read as follows:

§ 563.1 Chartering documents.

(a) *Submission for approval.* Any *de novo* savings association prior to commencing operations shall file its charter and bylaws with the OTS for approval, together with a certification that such charter and bylaws are permissible under all applicable laws, rules and regulations.

(b) *Availability of chartering documents.* Each savings association shall cause a true copy of its charter and bylaws and all amendments thereto to be available to accountholders at all times in each office of the savings association, and shall upon request deliver to any accountholders a copy of such charter and bylaws or amendments thereto.

§ 563.4 [Removed]

38. Section 563.4 is removed and reserved.

39. Section 563.10 is amended by removing the words "District Director" in paragraph (b)(1), and inserting, in lieu thereof, the word "OTS"; and by revising the heading of paragraph (c) and introductory text of paragraph (c)(1) to read as follows:

§ 563.10 Earnings-based accounts.

* * * * *

(c) *Permission for increased issuance.* (1) The OTS may grant permission to a savings association to issue earnings-based accounts in an amount of up to 20 percent of the savings association's assets, upon consideration by the OTS of the following factors:

* * * * *

40. Section 563.22 is amended by revising paragraph (c)(2); by removing the words "District Director" where they appear in the heading of paragraph (e) and in paragraph (e)(1), and by inserting in lieu thereof the word "OTS"; and by removing and reserving paragraphs (d)(1), (e)(2), (e)(3), and (f) to read as follows:

§ 563.22 Merger, consolidation, purchase or sale of assets, or assumption of liabilities.

* * * * *

(c) * * *

(2) Application for approval under this section shall be upon forms prescribed by the OTS and shall contain such information as the OTS may require, including appropriate information regarding the fairness and legal, economic, managerial, financial, disclosure, accounting and tax aspects of the transaction.

(d) * * *

(1) [Reserved]

* * * * *

(e) * * *

(2)–(3) [Reserved]

(f) [Reserved]

* * * * *

41. Section 563.37(c) is revised to read as follows:

§ 563.37 Operation of service corporation, liability of savings association for debt of service corporation.

* * * * *

(c) *Notice of new activity or acquisition or establishment of a service corporation.* Except as provided in 12 U.S.C. 1828(m)(5), every savings association shall notify the OTS and the FDIC not less than 30 days prior to the establishment or acquisition of any service corporation and not less than 30 days prior to the commencement of any new activity through a service corporation. The Notice requirement of this paragraph (c) may be met if noted specifically in any application filed under § 545.74 of this chapter or 12 CFR 303.13 of the FDIC's regulations, provided copies are submitted to the OTS and the FDIC.

42. Section 563.38 is amended by removing the first three sentences of paragraph (b) and adding two new sentences in their place to read as follows:

§ 563.38 Salvage power of savings association to assist service corporation.

* * * * *

(b) *Applications for approval.* Each application by a savings association to the OTS for its approval to make any such contribution, loan, investment, guarantee, or assumption of liability shall establish, to the satisfaction of the OTS, in a written statement, that the action it proposes is for the protection of the savings association's investment and is consistent with safe, sound, and economical home financing. The application shall describe and discuss alternative solutions to the service corporation's financial problem including solutions that do not involve increased investment by the savings association, and contain such other information as the OTS may require. * * *

43. Section 563.41 is amended by revising paragraph (e)(2)(ii)(D) to read as follows:

§ 563.41 Loans and other transactions with affiliates and subsidiaries.

* * * * *

(e) * * *

(2) * * *

(ii) * * *

(D) The OTS determines is a problem association or in troubled condition.

* * * * *

44. Section 563.43 is amended by revising the first sentence of paragraph (d), and paragraphs (e) and (f) to read as follows:

§ 563.43 Restrictions on loans, other investments, and real and personal property transactions involving affiliated persons.

* * * * *

(d) *Waiver.* The restrictions in paragraphs (b) and (c) of this section may be waived in supervisory cases if the OTS determines that the terms of the transaction in question are fair to, and in the best interests of, the savings association or subsidiary. * * *

(e) *Restrictions.* No savings association or subsidiary thereof may, directly or indirectly, purchase or lease from, jointly own with, sell or lease to, an affiliated person of the association any interest in real or personal property unless the transaction is determined by an independent majority of the board of directors of the association to be fair to, and in the best interests of, the savings association or subsidiary.

(f) *Conditions.* Transactions permitted under paragraph (e) of this section shall:

(1) Be supported by an independent appraisal not prepared by an affiliate, affiliated person, or employee of the savings association or subsidiary; and

(2) Be approved in advance by a resolution indicating that the terms of such transactions are fair to, and in the best interests of, the savings association or subsidiary. Such resolution must be duly adopted with full disclosure by at least a majority of the entire board of directors (with no director having an interest in the transaction voting on such resolution) of the association or subsidiary (or alternatively by a majority of the total votes eligible to be cast by the voting members of the

savings association at a meeting called for such purpose, with no votes cast by proxies not solicited for such purpose). For purposes of this paragraph (f), full disclosure must include the affiliated person's source of financing for the real property involved in the transaction, including whether the savings association or any subsidiary thereof has a deposit relationship with any financial institution or holding company affiliate thereof providing the financing.

§ 563.45 [Amended]

45. Section 563.45 is amended by removing Item 6, paragraph (e), Instruction 9, of the General Instructions to Form AR.

46. Section 563.74(e) is revised to read as follows:

§ 563.74 Mutual capital certificates.

* * * * *

(e) *Filing requirements.* The application for issuance of mutual capital certificates shall be publicly filed with the OTS.

* * * * *

§ 563.75 [Removed]

47. Section 563.75 is removed.

48. Section 563.80(e)(2) is revised to read as follows:

§ 563.80 Borrowing limitations.

* * * * *

(e) * * *

(2) The OTS shall have 10 business days after receipt of such filing to object to the issuance of such securities. The OTS shall object if the terms or covenants of the proposed issue place unreasonable burdens on, or control over, the operations of the association. If no objection is taken, the savings association shall have 120 calendar days within which to issue such securities.

* * * *

49. Section 563.81 is amended as follows:

a. By revising the section title;

b. By revising paragraphs (a), (b), (c), the introductory text of paragraph (d), paragraphs (d)(1)(iv), (d)(2), the first sentence of paragraph (g), and paragraphs (h) and (k);

c. By adding the phrase "or mandatorily redeemable preferred stock" after the word "debt" in the introductory text of paragraph (d)(1);

d. By removing the word "State" appearing in paragraph (d)(1)(iii) and by adding in lieu thereof the phrase "In connection only with a certificate evidencing subordinated debt, state";

e. By adding the phrase "or dividends, as appropriate" after the word "interest" appearing in paragraph (d)(1)(v);

f. By removing the word "Set" appearing in the introductory text of paragraph (d)(1)(vi) and adding in lieu thereof the phrase "In connection only with a certificate evidencing subordinated debt, set";

g. By removing and reserving paragraph (e); by removing the word "applicant" wherever it appears in paragraph (f) and by adding in lieu thereof the words "savings association"; and

h. By removing and reserving paragraphs (i) and (j) to read as follows:

§ 563.81 Issuance of subordinated debt securities and mandatorily redeemable preferred stock.

(a) *General*—(1) *Savings associations receiving standard treatment.* No savings association subject to standard treatment of its applications, as defined at § 516.3(b) of this chapter, shall issue subordinated debt securities or mandatorily redeemable preferred stock includable in regulatory capital pursuant to this section or amend the terms of such securities unless it has obtained the written approval of the OTS. Approval of the issuance under this section, in order to meet the requirements of § 567.5 of this subchapter, may be obtained either before or after the securities are issued. No approval shall be granted unless issuance of the securities and the form and manner of filing of the application are in accordance with the provisions of this section.

(2) *Savings associations receiving expedited treatment.* No savings association eligible for expedited treatment, as defined at § 516.3(a) of this chapter, shall issue subordinated debt securities or mandatorily redeemable preferred stock pursuant to this section for inclusion in regulatory capital or amend the terms of such securities unless it provides notice to the OTS, and such notice contains a statement of the association's intent to include such securities in regulatory capital. Notice should be made 30 days in advance of an issuance of subordinated debt securities or mandatorily redeemable preferred stock under this section, if the association intends to qualify such securities or stock as supplementary capital under § 567.5(b)(2) of this subchapter. Notice may be made either before or after such securities are issued, but will only be includable in regulatory capital (to the extent permitted by § 567.5(b) of this subchapter) if the issuance of the securities and the filing of the notice are in accordance with the provisions of this section and the savings association certifies, in writing, to the Office that all regulatory requirements have been met. The Office reserves the right to determine after the 30-day notice period has expired that the issuance does not comply with the requirements of this section or those of Part 567 for inclusion in capital.

(b) *Eligibility requirements.* In determining whether an issuance of subordinated debt securities or mandatorily redeemable preferred stock is includable in the regulatory capital of a savings association pursuant to this section, the OTS will consider the following factors:

(1) Whether the issuance of such securities by the savings association is authorized by applicable law and regulation and is not inconsistent with any provision of the savings association's charter or bylaws. Proof of such provision shall be submitted with the notice or application;

(2)(i) Whether, in the opinion of the OTS the overall policies, condition and operation of the savings association do not afford a basis for supervisory objection to the application or notice. The OTS shall establish guidelines that shall identify supervisory bases that may be used to object to the inclusion of specific subordinated debt and preferred stock issuances as regulatory capital. Such guidelines shall constitute illustrative but not exclusive bases for supervisory objection to subordinated debt and mandatorily redeemable preferred stock applications and notices. Such bases for supervisory objection may include, but are not limited to instances where:

(A) Regulatory capital, without regard to the amount of any subordinated debt and mandatorily redeemable preferred stock to be included in regulatory capital, does not meet the requirements of § 567.2 of this subchapter;

(B) Actual and expected losses have not been offset by specific and general valuation allowances to the extent required pursuant to § 563.160 and § 563.172 of this part; and

(C) Actual and anticipated income from operations, after distribution of earnings to the holders of savings accounts, payment of dividends on outstanding equity securities and payment of interest on borrowings but before income taxes, is not demonstrably sufficient for payment of dividends and redemption price, discount and related expenses of the proposed issuance.

(ii) The OTS may modify the guidelines in paragraph (b)(2)(i) of this section from time to time, as appropriate, and any such changes shall be effective for those applications and

notices filed after the date of the changes to the guidelines and for those applications and notices submitted to the OTS but not yet deemed "complete."

(3) Whether the issuance of such securities by the savings association in the transaction and any related transactions will result in a transfer of risk from the Savings Association Insurance Fund or the Bank Insurance Fund, as the case may be, to parties other than savings associations. In this connection, the issuance of subordinated debt securities shall not be deemed to result in a sufficient transfer of risk if such securities or any indenture or related agreement pursuant to which they are issued provides for events of default or includes other provisions that could result in a mandatory prepayment of principle by declaration or otherwise, other than events of default arising out of the obligor's failure to make timely payment of interest and principal, its failure to comply with reasonable financial, operating and maintenance covenants of a type that are customarily included in indentures relating to publicly offered issues of debt securities, and events of default relating to certain events of bankruptcy or insolvency, receivership and similar events.

(c) *Form of application or notice; supporting information.* Applications subject to standard treatment under § 516.3(b) of this chapter, or notices eligible for expedited treatment under § 516.3(a) of this chapter, pursuant to this section, shall be in the form prescribed by the OTS. The form of application and instructions for a savings association subject to standard treatment, and instructions for a notice by a savings association subject to expedited treatment, may be obtained from the OTS. Information and exhibits shall be furnished in support of an application or notice in accordance with the applicable instructions, setting forth all of the terms and provisions relating to the proposed issuance and showing that all of the requirements of this section have been or will be met.

(d) *Requirements as to securities.* Subordinated debt securities and mandatorily redeemable preferred stock issued pursuant to this section shall meet all of the following requirements unless one or more of such requirements, not including paragraphs (d)(1)(i)(A) and (d)(1)(ii) of this section which are not eligible for waiver, are waived by the OTS:

(1) *Form of certificate.* * * *

* * * * *

(iv) State or refer to a document stating that, in connection with a certificate evidencing subordinated debt, no voluntary prepayment of principal shall be made and that no payment of principal shall be accelerated and, in connection with a certificate evidencing mandatorily redeemable preferred stock, no voluntary redemption, other than scheduled redemptions, shall be made without the approval of the OTS if the savings association is failing to meet its regulatory capital requirements under Part 567 of this subchapter or, if after giving effect to such payment, the association would fail to meet such regulatory capital requirements;

* * * * *

(2) *Limitation as to term.* No subordinated debt security or mandatorily redeemable preferred stock issued by a savings association pursuant to this section shall have an original period to maturity or required redemption of less than seven years. During the first six years that such a security is outstanding, the total of all required sinking fund payments, other required prepayments, required purchase-fund payments, required reserve allocations and required redemptions with respect to the portion of such six years as have elapsed shall at no time exceed the original principal amount or original redemption price, thereof multiplied by a fraction, the numerator of which is the number of years that have elapsed since the issuance of the security and the denominator of which is the number of years covered by the original period to maturity or required redemption.

* * * * *

(e) [Reserved]

* * * * *

(g) *Limitation on offering period.* Following the date of approval of an application by a savings association subject to standard treatment by the OTS, or the earlier of the date of non-objection by the OTS of a notice by a savings association eligible for expedited treatment or 30 days after submission of a notice by such a savings association, unless the OTS has rejected such notice or issued a request for additional information on such notice, the association shall have an offering period of not more than one year in which to complete the sale of the subordinated debt securities or mandatorily redeemable preferred stock issued pursuant to this section. * * *

(h) *Reports.* Within 30 days after completion of the sale of the subordinated debt securities or mandatorily redeemable preferred stock issued pursuant to this section, the savings association shall transmit a written report to the OTS stating the number of purchases, the total dollar amount of securities sold, and the amount of net proceeds received by the savings association. The association's report shall clearly state the amount of subordinated debt or mandatorily redeemable preferred stock, net of all expenses, that the association intends to be counted as regulatory capital.

(i)–(j) [Reserved]

(k) *Conditions of approval and acceptance for subordinated debt and mandatorily redeemable preferred stock applications and notices.* Issuance of subordinated debt and mandatorily redeemable preferred stock applications and notices shall be subject to the following conditions:

(1) Where securities are to be sold pursuant to an offering circular required to be filed with the OTS pursuant to 12 CFR 563g.2, and where such offering circular has not yet been declared effective prior to the date of approval of or nonobjection to the subordinated debt or preferred stock application or notice, the offering circular in the form declared effective shall not disclose any material adverse information concerning the savings association's business, operations, prospects, or financial condition not disclosed in the latest form of offering circular filed as an exhibit to the application or notice;

(2) The savings association shall submit to the OTS no later than 30 days from the completion of the sale of the securities, certification of compliance with all applicable laws and regulations in connection with the offering, issuance, and sale of the securities;

(3) The savings association shall submit to the OTS no later than 30 days from the completion of the sale of the securities, the report(s) required by paragraph (h) of this section and the following additional items:

(i) Three copies of an executed form of the securities issued pursuant to the subject application or notice and a copy of any related agreement or indenture governing the issuance of securities; and

(ii) A certificate from the principal executive officer of the savings association that states that to the best of his or her knowledge, none of the securities issued pursuant to the subject application or notice were sold to any association whose accounts are insured by the Savings Association Insurance Fund, or a corporate affiliate thereof, except as permitted by 12 CFR 563.81;

(4) That as of the date of approval or nonobjection, there have been no material changes with respect to the information disclosed in the application or notice as submitted to the OTS;

(5) The savings association receives prior written approval or nonobjection from the OTS for any post-approval amendment to the securities or any related indenture if:

(i) The proposed amendment modifies or is inconsistent with any provision of the securities, or the indenture that is required to be included therein by the OTS's regulations as may then be in effect or would result in a transfer of risk to the savings association or the Savings Association Insurance Fund or the Bank Insurance Fund, as appropriate; and

(ii) All or a portion of the proceeds from the issuance and sale of the securities would continue to be included in the regulatory capital of the savings association following adoption of the amendment;

(6) The savings association shall submit to the OTS promptly after execution, one copy of each amendment to the securities or the related indenture, made after approval or nonobjection, and if prior approval of or nonobjection to such amendment was not obtained, shall also state the reason(s) such prior approval or nonobjection was not required; and

(7) Before any offers or sales of the securities are made on the premises of the association or its affiliates, the savings association shall submit to the OTS a set of policies and procedures for such sale of the securities satisfactory to the OTS.

50. Section 563.93 is amended by removing the phrase "District Director" in paragraph (b)(6)(iii), wherever it appears and adding, in lieu thereof, the word "OTS"; by removing paragraph (g); and by revising paragraph (d)(3)(iii) to read as follows:

§ 563.93 Lending limitations.

* * * * *

(d) *Exceptions to the general limitation*—(1) * * *

* * * * *

(3) *Loans to develop domestic residential housing units.* * * *

* * * * *

(iii) The OTS permits, subject to conditions it may impose, the savings association to use the higher limit set forth under paragraph (d)(3) of this section. A savings association that meets the requirements of paragraphs (d)(3) (i), (ii), (iv) and (v) of this section and that meets the requirements for "expedited treatment" under § 516.3(a) of this chapter may use the higher limit set forth under (d)(3) of this section if the savings association has filed a notice with the OTS that it intends to use the higher limit at least 30 days prior to the proposed use. A savings association that meets the requirements of paragraphs (d)(3) (i), (ii), (iv) and (v) of this section and that meets the requirements for "standard treatment" under § 516.3(b) of this chapter may use the higher limit set forth under (d)(3) of this section if the savings association has filed a notice with the OTS and an order has been issued permitting the savings association to use the higher limit.

* * * * *

51. Section 563.131 is amended by removing the phrases "the savings association's District Director" in paragraph (a)(1), "its District Director" in paragraphs (b) and (d), and "the District Director" in paragraph (e), wherever they appear, and by adding in lieu thereof the phrase "the OTS"; and by revising the introductory text of paragraph (c) to read as follows:

§ 563.131 Liability growth.

* * * * *

(c) To obtain the prior written approval from the OTS a savings association shall submit a written growth plan. A growth plan shall cover a period of time not to exceed 1 year and shall include the following information:

* * * * *

52. Section 563.132 is amended by removing the phrase "its parent savings association's District Director" in paragraph (a)(1)(ii), "it's District Director" in paragraph (c)(2), "the District Director" in paragraph (c)(4), wherever they appear and by adding in lieu thereof the phrase "the OTS"; by removing paragraph (c)(5); and by revising the heading of paragraph (c), the introductory text of paragraph (c)(1), and paragraph (c)(3) to read as follows:

§ 563.132 Securities issued through subsidiaries.

* * * * *

(c) *Notification to the OTS.* (1) Prior to the establishment of any finance subsidiary, the transfer of any additional assets to an existing finance subsidiary, or the issuance of securities through a subsidiary as described in paragraph (a)(1)(ii) of this section, the board of directors of the parent savings association, or a duly authorized executive committee thereof, shall submit written notification to the OTS specifying:

* * * * *

(3) A savings association eligible for expedited treatment pursuant to § 516.3(a) of this chapter may establish a finance subsidiary, transfer assets to an existing finance subsidiary, or issue additional securities through a subsidiary described in paragraph (a)(1)(ii) of this section without prior approval subject to the procedures of paragraph (c)(1) of this section. Any savings association that is subject to standard treatment as defined in § 516.3(b) of this chapter shall not establish a finance subsidiary, transfer assets to an existing finance subsidiary, or issue additional securities through a subsidiary described in paragraph (a)(1)(ii) of this section without the prior written approval of the OTS. The board of directors of the association, or an authorized executive committee thereof, shall submit a written application containing the information specified in paragraph (c)(1) of this section, as well as any additional information required by the OTS.

* * * * *

§ 563.133 [Removed]

53. Section 563.133 is removed and reserved.

§ 563.134 [Amended]

54. Section 563.134 is amended by removing the phrase "its District Director" wherever it appears in paragraphs (c) and (e)(3) and by adding in lieu thereof the word "OTS".

PART 563b—[AMENDED]

55. The authority citation for part 563b continues to read as follows:

Authority: Secs. 2, 5, 48 Stat. 128, 132, as amended (12 U.S.C. 1462, 1464); sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 10, as added by sec. 301, 103 Stat. 318 (12 U.S.C. 1467a); secs. 3, 12–14, 23, 48 Stat. 882, 892, 894–895, 901, as amended (15 U.S.C. 78c, 1–n, w).

56. Section 563b.3 is amended by revising the last sentence of paragraph (i)(3)(i) to read as follows:

§ 563b.3 General principles for conversions.

* * * * *

(i) *Acquisition of the securities of converting and converted savings associations*— * * *

* * * * *

(3) *Prohibition on offers to acquire and acquisitions of stock for three years following conversion.* (i) * * * In obtaining the prior written approval of the OTS under this paragraph (i), the criteria for approval under paragraph (i)(5) of this section should be addressed, if applicable, in the application, notice, or rebuttal required by part 574 of this subchapter for the acquisition of stock of a savings

association, as set forth in § 574.6(j) of this subchapter.

* * * * *

§ 563b.8 [Amended]

57. Section 563b.8 is amended by removing paragraph (w).

58. Section 563b.28 is amended by removing and reserving paragraph (c), and by revising paragraph (a) to read as follows:

§ 563b.28 Procedural requirements.

(a) *Filing of voluntary supervisory conversion application.* A savings association seeking to convert pursuant to this subpart shall file with the OTS the information and documents specified in § 563b.27 of this subpart.

* * * * *

(c) [Reserved]

* * * * *

§ 563b.29 [Amended]

59. Section 563b.29 is amended by removing the phrase "General Counsel or his or her designee" where it appears in paragraph (a) and by adding in lieu thereof the word "OTS".

60. Section 563b.39 is amended by revising paragraphs (d) and (m) to read as follows:

§ 563b.39 Application for modified conversion.

* * * * *

(d) A business plan acceptable to the OTS, which shall contain a description of the proposed operating policies of the savings association following the conversion, including a statement as to how the conversion proceeds will be used, and a projection of the savings associations's results of operations for the three-year period following completion of the conversion. The savings association shall specify the assumptions on which its projections are based.

* * * * *

(m) Information to support the value of any non-cash assets to be contributed to the savings association in connection with the modified conversion. Appraisals must be acceptable to the OTS.

* * * * *

61. Section 563b.41 is amended by removing and reserving paragraph (c); and by revising paragraph (a) to read as follows:

§ 563b.41 Procedural requirements.

(a) *Filing of modified conversion application.* A savings association seeking to convert pursuant to this subpart shall file an original and one copy of its modified conversion application containing the information and documents specified in § 563b.39 of this subpart with the OTS.

* * * * *

PART 563f—[AMENDED]

62. The authority citation for part 563f continues to read as follows:

Authority: Sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 201, 92 Stat. 3672, as amended (12 U.S.C. 3201 *et seq.*).

63. Section 563f.7 is revised to read as follows:

§ 563f.7 Exemptions and extensions of time.

Exemptions under § 563f.4 of this part shall be granted if all relevant conditions specified are met. Extensions under § 563f.6 of this part shall be granted unless the OTS determines that the extension would be so contrary to the best interests of the depository institutions as to outweigh the disruption caused by the earlier departure of management officials in interlocking relationships. Applications made pursuant to this section should be submitted to the Regional Office for the Region that has supervisory responsibility over the depository institution or depository holding company wherein the management official is, or would be in, a prohibited management interlock position.

PART 566—[AMENDED]

64. The authority citation for part 566 continues to read as follows:

Authority: Sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 6, 48 Stat. 134, as amended (12 U.S.C. 1465); sec. 10, as added by sec. 301, 103 Stat. 318 (12 U.S.C. 1467a); sec. 701, as added by sec. 503, 88 Stat. 1521, as amended (15 U.S.C. 1691); sec. 702, as added by sec. 503, 88 Stat. 1522 (15 U.S.C. 1691a).

§ 566.3 [Removed]

65. Section 566.3 is removed and reserved.

66. Section 566.4 is revised to read as follows:

§ 566.4 Records; deficiencies.

Each savings association shall maintain records verifying its compliance with liquidity requirements prescribed by the OTS, and make them available to the OTS, or its representative, during supervisory examinations and at other times as the OTS may direct. The OTS may institute appropriate enforcement proceedings for any failure to comply with the liquidity requirements of this part.

§ 566.5 [Removed]

67. Section 566.5 is removed and reserved.

PART 567—[AMENDED]

67a. The authority for part 567 continues to read as follows:

Authority: Sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 10, as added by sec. 301, 103 Stat. 318 (12 U.S.C. 1467a).

§ 567.3 [Amended]

67b. Section 567.3(d)(2)(i) introductory text is amended by removing the number "500.32(c)(1)(i)" and inserting in lieu thereof the number "516.1(c)".

PART 571—[AMENDED]

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

Authority: Sec. 552, 80 Stat. 383, as amended (5 U.S.C. 552); sec. 559, 80 Stat. 388, as amended (5 U.S.C. 559); sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464).

§ 571.12 [Removed]

69. Section 571.12 is removed and reserved.

PART 574—[AMENDED]

70. The authority citation for part 574 continues to read as follows:

Authority: Sec. 10, as added by sec. 301, 103 Stat. 318 (12 U.S.C. 1467a); sec. 2(7), 64 Stat. 876, as amended (12 U.S.C. 1817).

71. Section 574.3 is amended by revising paragraph (c)(1)(ii) to read as follows:

§ 574.3 Acquisition of control of savings associations.

* * * * *

(c) *Exempt transactions.* (1) * * *

* * * * *

(ii) Control of a savings association acquired in connection with a reorganization that involves solely the acquisition of control of that association by a newly formed company that is controlled by the same acquirors that controlled the savings association for the immediately preceding three years, and entails no other transactions, such as an assumption of the acquirors' debt by the newly formed company: Provided, that the acquirors have filed with the Office an H–(e)4 notification as

provided in section 574.6 of this part and the OTS does not object to the acquisition within 30 days of the filing date.

* * * * *

72. Section 574.4 is amended by revising the text of paragraph (f)(1) preceding the certification to read as follows:

§ 574.4 Control.

* * * * *

(f) *Safe harbor.* * * *

(1) In order to qualify for the safe harbor, an acquiror must submit a certification to the OTS that shall be signed by the acquiror or an authorized representative thereof and shall read as follows:

* * * * *

73. Section 574.5 is amended by revising paragraph (a)(1) to read as follows:

§ 574.5 Certifications of ownership and other reports.

(a) *Acquisition of stock.* (1) Upon the acquisition of beneficial ownership that exceeds, in the aggregate, 10 percent of any class of stock of a savings association or additional stock above 10 percent of the stock of a savings association occurring after December 26, 1985, an acquiror shall file with the OTS a certification as described in this section.

* * * * *

74. Section 574.6 is amended by revising paragraphs (b) and (d)(2) and by adding a new paragraph (j) to read as follows:

§ 574.6 Procedural requirements.

* * * * *

(b) *Filing requirements*—(1) *Applications, notices, and rebuttals.* (i) Complete copies including exhibits and all other pertinent documents of applications, notices, and rebuttal submissions shall be filed with the Region in which the savings association or associations involved in the transaction have their home office or offices. Unsigned copies shall be conformed. Each copy shall include a summary of the proposed transaction.

(ii) Any person or company may amend an application, notice or rebuttal submission, or file additional information, upon request of the OTS or, in the case of the party filing an application, notice, or rebuttal, upon such party's own initiative.

(2) *H–(e)4 Information filing.* Any information filing required to be made to claim that a reorganization is exempt from prior written approval of the OTS under § 574.3(c)(1)(ii) of this part shall be clearly labeled "H–(e)4 Information Filing".

* * * * *

(d) * * *

(2) Notice published pursuant to paragraph (d) of this section shall be published in a manner that is conspicuous to the average reader and shall be made in substantially the following form:

Notice of Filing of Application or Notice for Acquisition of a Savings Association

This is to inform the public that under § 574.3 of the Regulations of the Office of Thrift Supervision ("OTS") for Acquisitions of Savings Associations [Acquiror] [has filed/intends to file] an [application/notice] with OTS, for permission to [acquire control of/ purchase a qualified stock issuance of] savings association, located in [location], on [date, or intended date of filing].

Anyone may write in favor of or protest against the [application/notice] and in so doing may submit such information as he or she deems relevant. Three copies of all submissions must be sent to OTS [give Region name and address] within 20 calendar days of the filing of the [application/notice]. Up to an additional 20 calendar days to submit comments may be obtained upon a showing of good cause, if a written request is received by the OTS within the initial 20-day period.

You may inspect the non-confidential portion of the [application/notice] and non-confidential portions of all comments filed with the OTS by contacting [give name and address.] If you have any questions concerning these procedures, contact the OTS Regional Office at (____) _____.

* * * * *

(j) *Additional procedures for acquisitions of recently converted savings associations.* Applications, notices and rebuttals involving acquisitions of the stock of a recently converted savings association under § 563b.3(i)(3) of this chapter shall also address the criteria for approval set forth at § 563b.3(i)(5) of this chapter.

§ 574.7 [Amended]

75. Section 574.7 is amended by removing and reserving paragraph (f).

§ 574.9 [Removed]

76. Section 574.9 is removed.

SUBCHAPTER F—REGULATIONS FOR SAVINGS AND LOAN HOLDING COMPANIES

PART 584—[AMENDED]

77. The authority citation for part 584 continues to read as follows:

Authority: Sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended; (12 U.S.C. 1464); sec. 10, as added by sec. 301, 103 Stat. 318 (12 U.S.C. 1467a); sec. 11, as added by sec. 301, 103 Stat. 342 (12 U.S.C. 1468).

78. Section 584.2–1 is amended by revising paragraph (c)(1) to read as follows:

§ 584.2–1 Prescribed services and activities of savings and loan holding companies.

* * * * *

(c) *Procedures for commencing services or activities.* (1) Before a savings and loan holding company subject to restrictions on its activities pursuant to § 584.2(b) of this part or a subsidiary thereof may commence performing or engaging in a service or activity prescribed by paragraph (b) of this section, either *de novo* or by an acquisition of a going concern, it shall file a notice of intent to do so in a form prescribed by the OTS. The activity or service may be commenced unless, before the close of the period specified immediately below, the OTS finds that the activity or service proposed would not be, under the circumstances, a proper incident to the operations of savings associations or would be detrimental to the interests of savings account holders. The period for review shall be 30 calendar days after the date of receipt of such notice, in the case of a de novo entry, or 60 calendar days, in the case of an acquisition of a going concern.

* * * * *

79. Section 584.2–2 is amended by revising the first two sentences of paragraph (b) to read as follows:

§ 584.2–2 Permissible bank holding company activities of savings and loan holding companies.

* * * * *

(b) *Procedures for applications.* Applications to commence any activity prescribed under paragraph (a) of this section shall be filed with the OTS. The OTS shall act upon such application pursuant to the guidelines set forth in § 516.2 of this chapter. * * *

* * * * *

§ 584.9 [Amended]

80. Section 584.9 is amended by revising paragraph (d) to read as follows:

§ 584.9 Prohibited Acts.

* * * * *

(d) *Applications for approval.* Applications for an approval under

paragraph (c) of this section shall contain a full statement of the reasons in support thereof. Such applications shall be filed with the OTS.

Dated: March 27, 1992.

By the Office of Thrift Supervision.

Jonathan L. Fiechter,

Deputy Director for Washington Operations.

[FR Doc. 92-8832 Filed 4-17-92; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 14

Advisory Committee; Clarifying Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the standing advisory committees regulations to change the name of the Radiopharmaceutical Drugs Advisory Committee to the Medical Imaging Drugs Advisory Committee, and to revise the function statement for that committee. This action is being taken to clarify and more accurately describe the function of this committee.

EFFECTIVE DATE: April 20, 1992.

FOR FURTHER INFORMATION CONTACT: Donna M. Combs, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

SUPPLEMENTARY INFORMATION: FDA is announcing that the name of the Radiopharmaceutical Drugs Advisory Committee and its function has been changed. Since the establishment of this committee, on August 30, 1967, a number of technical developments in the field have occurred. The agency feels that the name "Medical Imaging Drugs Advisory Committee" more accurately describes the products reviewed by this committee. The agency also believes that the function of the committee should also reflect the technological developments that have occurred since its establishment. In the **Federal Register** of May 15, 1990 (55 FR 20205), FDA published a notice and indicated that the name of the Radiopharmaceutical Drugs Advisory Committee had been changed to the Medical Imaging Drugs Advisory Committee in the charter renewal dated February 28, 1990. In this document, FDA is hereby formally changing the name of the committee and revising its function statement by revising 21 CFR 14.100(c)(15)(ii).

Publication of this document constitutes final action on this change under the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B) and (d)) and under 21 CFR 10.40 (d) and (e). Notice and public procedure and delayed effective date on this regulation are unnecessary and not in the public interest, because the final rule is merely a clarifying amendment to existing regulations and when effective will provide notice of accepted standards.

List of Subjects in 21 CFR Part 14

Administrative practice and procedure, Advisory committees, Color additives, Drugs, Radiation protection.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 14 is amended as follows:

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

1. The authority citation for 21 CFR part 14 continues to read as follows:

Authority: Secs. 201-903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321-394); 21 U.S.C. 41-50, 141-149, 467f, 679, 821, 1034; secs. 2, 351, 361 of the Public Health Service Act (42 U.S.C. 201, 262, 264); secs. 2-12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451-1461); 5 U.S.C. App. 2; 28 U.S.C. 2112.

2. Section 14.100 is amended by revising the heading for paragraph (c)(15) and by revising paragraph (c)(15)(ii) to read as follows:

§ 14.100 List of standing advisory committees.

* * * * *

(c) * * *

(15) *Medical Imaging Drugs Advisory Committee.*

* * * * *

(ii) Function: Reviews and evaluates data concerning the safety and effectiveness of marketed and investigational human drug products for use in diagnostic and therapeutic procedures using radioactive pharmaceuticals and contrast media used in diagnostic radiology.

* * * * *

Dated: April 14, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-9062 Filed 4-17-92; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

Indiana Regulatory Program; Reclamation Bond Pool

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is announcing the approval, with an exception, of a proposed amendment to the Indiana permanent regulatory program (hereinafter referred to as the Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment concerns revision to the Indiana surface mining statute to establish a Surface Coal Mine Reclamation Bond Pool. The amendment will provide coal mine operators with an alternative source of reclamation performance bonds.

EFFECTIVE DATE: April 20, 1992.

FOR FURTHER INFORMATION CONTACT: Roger W. Calhoun, Acting Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, room 301, Indianapolis, IN 46204, Telephone (317) 226-6166.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program

The Secretary of the Interior conditionally approved the Indiana program effective July 29, 1982. Information on the background of the Indiana program, including the Secretary's findings, the disposition of public comments and a detailed explanation of the conditions of approval can be found in the July 26, 1982, **Federal Register** (47 FR 32107). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 914.15 and 914.16.

II. Submission of the Amendment

On March 18, 1988 (Administrative Record No. IND-0559), the Indiana Department of Natural Resources (IDNR) submitted to OSM, pursuant to

30 CFR 732.17, a proposed State program amendment. The provisions of the amendment were included in three laws enacted by the 1988 Indiana General Assembly: Senate Enrolled Acts (SEA) Nos. 45, 121, and 231. By letter dated October 19, 1988, Indiana requested that OSM process each of the three laws separately as individual program amendments (Administrative Record No. IND–0611). By an undated letter received by OSM on May 9, 1989, the IDNR requested that the self-bonding and the reclamation bond pool provisions of SEA 231 (PL 110–1988) be processed separately as individual State program amendments (Administrative Record No. IND–0643).

This notice pertains to section 4 of SEA 231 as amended (Administrative Record No. IND–0559C). Section 4 of SEA 231 adds Indiana Code (IC) 13–4.1–6.5 as a new chapter with the purpose of establishing a Surface Coal Mine Reclamation Bond Pool.

OSM announced receipt of the proposed amendment in the May 10, 1988, **Federal Register** (53 FR 16560) and, in the same notice, opened the public comment period and provided opportunity for a public hearing on its adequacy. The public comment period ended June 9, 1988. There were two requests for a public hearing concerning the May 10, 1988, submittal, and a hearing was held on June 6, 1988.

OSM did not act on the proposed amendment but, at the State's request, provided additional time for the correction of several flaws which would have resulted in disapproval. The 1989 Indiana General Assembly amended IC 13–4.1–6.5 (Pub. L. 158–1989) in an attempt to correct these deficiencies. The 1990 and 1991 Indiana General Assembly also amended IC 13–4.1–6.5 for the same reason (Pub. L. 103–1990 and Pub. L. 126–1991). These revisions in the amendment were submitted to OSM on June 4, 1991, as part of State program amendment number 91–7 (Administrative Record No. 0894). OSM announced receipt of the revisions in the July 9, 1991, **Federal Register** (56 FR 31093) and, in the same notice, reopened the public comment period. This second public comment period closed on August 8, 1991. No public comments were received pertaining to the bond pool and no one requested a public hearing.

Chapter 6.5 of IC 13–4.1 which establishes the Surface Coal Mine Reclamation Bond Pool (the pool) as an alternative bonding system was implemented by IDNR in October of 1988 without OSM's consent or approval. In a March 17, 1989, letter, OSM requested IDNR to suspend the issuance of bonds under the pool until the Director of OSM reached a decision on the proposed amendment (Administrative Record No. IND–0639). IDNR agreed not to accept any new participants in the bond pool; however, the existing participants were permitted to add acreage.

As of December 31, 1991, the ten companies participating in the pool held 43 permits which authorized mining on 8,368.8 acres. The closing balance in the pool (account 600–821) on December 31, 1991, was $252,624.15. An additional $1,350,000 was available to be dedicated as collateral in other State controlled accounts. The committee which administers the pool reported $18,352,210.45 in potential liabilities for Phase II and III reclamation. Since October 1988, there have been no bond forfeitures by any bond pool participants (Administrative Record Nos. IND–1039 and 1018).

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment to the Indiana program.

Section 1 of Chapter 6.5 defines the word "committee" to mean the surface coal mine reclamation bond pool committee established under section 11 of the same chapter. Section 11 of the proposed amendment establishes a five-member surface coal mine reclamation bond pool committee (the committee) who are appointed by the governor for four-year terms. Three members of the committee must represent a cross-section of coal operators, one member must be a member of the Indiana Natural Resources Commission and one member must be a representative of the public with a license as a certified public accountant. Not more than three members on the committee may belong to the same political party. The committee makes recommendations to the Director of IDNR on proposed expenditures from the bond pool and all new applications for admission.

Section 517(g) of SMCRA prohibits employees of a state regulatory authority from performing any function or duty under SMCRA if the employee has a direct or indirect financial interest in any underground or surface coal mining operation(s). Section 705.5 of the Federal rules defines "performing any function or duty under this Act" to mean those decisions or actions, which if performed or not performed by an employee, affect the programs under the Act.

The committee acts in an advisory capacity to the Director and has no decision making functions. OSM, therefore, finds section 11 and section 1 of the amendment to the consistent with section 517(g) of SMCRA and no less effective than 30 CFR part 705.

Section 2 of chapter 6.5 defines the words "bond pool" to mean the surface coal mine reclamation bond pool established under section 3 of the same chapter. Section 3 states that the surface coal mine reclamation bond pool is established to be used for surface coal mine reclamation and shall be administratered by IDNR. Section 509(c) of SMCRA authorizes the Secretary of the Interior to approve as part of a State or Federal program an alternative system that will achieve the objectives and purposes of the bonding program as set forth in section 509. The Director, therefore, finds that the concept of a bond pool as a means to ensure the completion of reclamation is consistent with SMCRA.

Section 4 of Chapter 6.5 sets forth provisions governing who is eligible to participate in the pool. Under paragraph (a), participation is open to all coal operators applying for a permit who, after May 3, 1978, have a five-year history of mining within Indiana and who: (1) Are not subject to an outstanding cessation order, (2) do not owe any civil penalties or fees collected under SMCRA or the Indiana permanent regulatory program, or have a history of delinquency in the payment of any civil penalities or fees, and (3) have not been previously suspended from participation in the pool. Paragraph (b) makes participation in the pool optional as to each permit application, subject to the approval of the Director of IDNR and not effective until the pool entrance fee is paid in full. Furthermore, under paragraph (c), the Director of IDNR may disapprove an application when he believes the applicant creates unreasonable risk to the pool. SMCRA does not restrict operator participation in alternative bonding systems. OSM believes that such restrictions on participation serve to limit financial risk and reward those operators who have a demonstrated history of compliance. The Director, therefore, finds these provisions to be not inconsistent with the broad objectives of SMCRA and the Federal rules.

Paragraph (d) declares that nothing in chapter 6.5 (Bond Pool) precludes compliance with chapter 6 (Bonding). Chapter 6, which was previously approved as part of the Indiana State program, sets forth the requirements concerning the filing of bond, amount of bond, liability period, execution of bond, adjustment of bond, forfeiture of bond and related topics. According to

Indiana's December 17, 1991, letter of clarification, these requirements will remain in effect even though an operator participates in the pool (Administrative Record No. IND–1018). Acres in the bond pool will be subject to the same liability periods and release procedures as conventionally bonded acreage, except that bond pool participants will be eligibile for the return of all Phase I reclamation bond rather than 60 percent of the total bond as is the case for non-bond pool participants. This is acceptable because Phase I reclamation, which includes backfilling, regrading and drainage control, will be bonded separately from the final two phases of reclamation. These final phases of reclamation will be covered by the bond pool. The Director, given this clarification of the meaning of paragraph (d), finds it to be not inconsistent with SMCRA and the Federal regulations.

Paragraph (e) of section 4 states that the commencement of participation in the bond pool with respect to an individual permit constitutes an irrevocable commitment to participate in the bond pool as to the permit for the duration of the surface coal mining operation covered under the permit. Paragraph (f) provides for the participation of operators in the bond pool on the basis of a bond increment area under an existing permit. Operators who use incremental bonding are subject to the same irrevocable commitment to participate as though they were permitting the entire permit area. There is no direct Federal counterpart to these provisions. The Director finds paragraphs (e) and (f) to be not inconsistent with the requirements of SMCRA and the Federal regulations.

Section 5 of chapter 6.5 establishes a one-time $1,000 per operator entrance fee to the pool which is deposited in the post-1977 abandoned mine reclamation fund and dedicated as collateral for the bond pool. This fee is refundable if the application to participate in the pool is rejected. In addition to an entrance fee, bond pool participants must furnish a separate surety bond or a self-bond in an amount adequate to assure completion of Phase I reclamation. As explained in a December 17, 1991, letter from IDNR to the Director (Administrative Record No. IND–1018), the reclamation activities that comprise Phase I (backfilling, regrading and drainage control) are defined in IC 12–4–16(c) and represent the reclamation release phases described in 30 CFR 800.40(c). Bonding is permissible in increments that follow the increments contained in the approved permit application. While there are no direct Federal counterparts to these provisions, the Director finds them to be not inconsistent with the requirements of SMCRA and the Federal regulations.

As previously stated, existing participants in the bond pool as of December 31, 1991, held 43 permits covering 8,368.8 acres. The surety and other separate bonds submitted to the IDNR by these existing bond pool participants is based upon 60 percent of the estimated total cost of reclamation. The Indiana Coal Council, Inc. has testified that it is generally recognized that grading, topsoil replacement and stabilization, which are Phase I activities, represent considerably more than 60 percent of the total cost of reclamation (Administrative Record No. IND–0590). The Director agrees with the Coal Council and is therefore including as a required program amendment, that the IDNR recalculate the performance bonds by phase of reclamation for all permits held by existing bond pool participants. These recalculations must be based upon third-party costs such as experienced by the State in reclaiming sites under its abandoned coal mine reclamation program or its existing program for the reclamation of forfeiture sites. This required amendment is necessary in order to bring existing bond pool participants in compliance with IC 13–4.1–6.5–5(b) which states that an operator electing to participate in the pool must furnish a bond in an amount adequate to ensure Phase I reclamation. It is also needed to accurately determine the potential liabilities of the bond pool.

Section 6 of chapter 6.5 sets the conditions under which an operator may be suspended from participation in the pool. An operator is suspended if the operator fails to pay a fee or civil penalty or if the operator receives a cessation order that is not abated. However, no adverse action is taken if the Director of IDNR makes a written determination that mitigating circumstances are present that would not create unreasonable risk to the pool if the operator's participation continues. An operator who is suspended must cease all surface mining operations until a new performance bond is furnished. When a new performance bond has been executed, the pool has no additional liability for reclamation. While there is no direct Federal counterpart to this proposal, the Director finds it to be not inconsistent with the requirements of SMCRA and the Federal regulations.

Section 7 of chapter 6.5 provides for bond or other surety furnished by the operator for Phase I reclamation to be released by the Director of the IDNR when the operator completes backfilling, regrading and drainage control in accordance with the approved reclamation plan. Section 519(c) of SMCRA states that the regulatory authority may release in whole or in part a bond or deposit if the authority is satisfied the reclamation covered by the bond or deposit or portion thereof has been accomplished as required by the Act. Release shall follow a schedule which allows for the release of 60 percent of the bond or collateral for the applicable permit area when the operator completes backfilling, regrading, and drainage control of a bonded area in accordance with the approved reclamation plan. The underlying assumption of this release schedule in section 519(c) is that the total bond representing the three phases of reclamation is provided by a single surety or other party and that 60 percent of that total is sufficient to complete Phase I reclamation. These assumptions are incorrect when applied to alternative bonding systems such as proposed by Indiana where the source of Phase I bond or collateral is diffferent from the source of Phase II and III bond or collateral. Furthermore, as previously indicated, 60 percent of the total bond may not be sufficient to assure completion of Phase I reclamation. OSM believes that section 509(c) of SMCRA authorizes the approval of an alternative schedule of bond release given that the alternative will achieve the objectives and purposes of the bonding program as set forth in section 509. Indiana's proposal to release all of Phase I bond when the operator completes all reclamation obligations included in Phase I satisfies the objectives and purposes of the bonding program which is to assure the faithful performance of all requirements of the Act and the permit. The Director, therefore, finds section 7 to be not inconsistent with SMCRA and the Federal rules.

Section 8 of the proposed amendment establishes fees for participants in the bond pool. Paragraph (a) of section 8 requires operators to pay into the pool an initial, one-time fee of $25 per bonded acre for all land covered by the pool. Paragraph (b) requires the operator to pay annually into the pool ten dollars per acre after the self-bond or other separate surety which the operator furnished to cover Phase I reclamation is released. After Phase II is released, paragraph (c) requires that the annual fee be reduced to five dollars per acre per year for a period of three years and thereafter be increased to ten dollars per

acre per year until final bond release is approved.

SMCRA and the Federal rules do not specify a fee structure for alternative bonding systems. However, section 509(c) of SMCRA and the Federal rules at 30 CFR 800.11(e) do require such alternative bonding systems to have available sufficient money to complete the reclamation plan for any areas which may be in default at any time and to provide a substantial economic incentive for the permittee to comply with all the reclamation provisions. OSM interprets section 509(c) and 30 CFR 800.11(e) as requiring sufficient money to be available to complete reclamation under a worst case scenario which reflects historic default rates and the concentration of risk among participants in alternative bonding systems. In the case of bond pools, this means that the total assets of the pool need not equal the total potential liabilities in order for the pool to be found not inconsistent with SMCRA and the Federal rules.

OSM analyzed the financial solvency of the pool based on the provisions of SEA 231 as amended and supplemental information submitted by IDNR and by the Chairman of the Indian Bond Pool Committee. In addition, meetings concerning the subject of financial solvency were held between the IDNR, the Indiana Bond Pool Committee and OSM on April 3, 1989, June 8, 1989, September 21, 1989, and October 24, 1989. As a result, Indiana amended IC 13–4.1–6–8 to dedicate a minimum of $500,000 within the existing post-1977 abandoned mine land reclamation fund as bond pool collateral. On December 17, 1991, monies in the fund ($1,350,000) which could be dedicated as bond pool collateral greatly exceeded the minimum $500,000 required by Indiana law.

The post-1977 abandoned mine land reclamation fund (account number 345–300) may be used for the restoration of lands not otherwise eligible for Federal funding on which there has been surface mining activity after August 3, 1977. The minimum $500,000 dedicated for bond pool collateral may not be used for the restoration of other eligible lands. This dedicated money is derived from annual operator fees which are no longer assessed and civil penalties. Bond forfeiture monies are retained under a separate revenue code within the fund and used solely for the purpose of reclaiming the forfeiture sites to which the bonds apply. The State treasurer must invest money in the fund not needed for current obligations in the same manner as other public funds are invested. Interest that accrues from these investments must be deposited in the fund. Money in the fund at the end of each fiscal year is retained and does not revert to the state general fund. While there is no Federal counterpart to the post-1977 abandoned mine land reclamation fund, the Director finds that the dedication of monies within the fund as collateral for the bond pool is not inconsistent with SMCRA and the Federal regulations.

Based upon data available on June 30, 1991, OSM evaluated the pool, taking into consideration the minimum $500,000 in collateral and the proposed fee structure for bond pool participants (Administrative Record No. IND–0998). The annual revenues generated by the pool on a per acre basis were compared with the liabilities attributable to the pool for a projected four-year period. It was assumed that under a worst case scenario, one bond pool participant would go into default during the first year of the pool's operation and that a 2.5 percent default rate would be experienced thereafter. OSM concluded that, given these and other assumptions, the pool would be solvent during the first three years of operation; however, during the fourth year, funds in the pool and those available as collateral would not be sufficient to cover expenses. Thus, the pool is solvent in the short run (1–3 years) but may not be financially stable over a longer period. For this reason, the Director of OSM on September 30, 1991, entered into a cooperative agreement with the IDNR to fund a study to be conducted by a third party experienced in financial analyses for the specific purpose of determining whether Indiana's bond pool will be solvent in the long run and, if not, to provide recommendations to assure its solvency. The study, which is estimated to cost $25,000, is to be completed by June 30, 1992. The director is, therefore, finding paragraphs (a), (b) and (c) of section 8 to be not inconsistent with section 509(c) of SMCRA and 30 CFR 800.11(e). However, the completion of the actuarial study and the adoption by IDNR of any forthcoming recommendations with regard to participant fees and other matters that would affect the long-term financial solvency of the pool is required. During the interim period, the State is free to add new members to the bond pool and to increase the acreage covered.

Under paragraph (d) of section 8, payments into the pool shall be suspended provided that the operator has made payments for at least five years and the pool is in good financial condition. This suspension of payments removes most financial incentive for the operator to achieve final bond release because there is no cost associated with perpetually holding land in a condition that is less than complete reclamation. Section 503(c) of SMCRA and the Federal rules at 30 CFR 800.11(e) require any alternative bonding system to provide substantial economic incentive for the operator to comply with all reclamation provisions, one of which is the completion of reclamation and final release of performance bond. For this reason, the Director finds that paragraph (d) of section 8 is less stringent than the minimum requirements of section 509(c) of SMCRA and less effective than the Secretary's rules at 30 CFR 800.11(e). IC 13–4.1–6.5–8(d) is therefore not approved.

Section 9 of the proposed amendment provides for the expenditure of monies from the fund when other available funds furnished to cover Phase I reclamation have been exhausted. Money in the fund is available for the completion of reclamation necessary to achieve only Phase II and Phase III bond release according to the approved reclamation plan. Section 509(a) of SMCRA requires the amount of the bond to be sufficient to assure the completion of the reclamation plan if the work has to be performed by the regulatory authority in the event of forfeiture. Under section 9 of the proposed amendment, monies are available to achieve the approved post-mining land use described in the reclamation plan. The Director finds that section 9 of the amendment is no less effective than the Federal rules and is not inconsistent with SMCRA.

Section 10 of the proposed amendment addresses the forfeiture of bonds and liability of pool participants to reclaim areas disturbed by other operators in the pool. Paragraph (a) of section 10 subjects bond pool participants to the same rules of forfeiture as non-pool participants. The director of IDNR is also authorized by statute to file a civil action for injunctive or other relief in any court having jurisdiction to compel the permittee to perform reclamation work in full compliance with the Indiana regulatory program and approved permit plans. The director may also file an action in any court having jurisdiction against the permittee to recover money expended by the pool to accomplish reclamation. In action to recover these costs, the defendant may not relitigate the facts giving rise to the forfeiture or claim that the forfeiture was improper. Furthermore, as stated in paragraph (b), a proceeding by the director under section 10 does not constitute a waiver

by the director to proceed under other provisions of article 13 in the Indiana Code. While there is no direct Federal counterpart to these provisions, the director finds them to be not inconsistent with the requirements of SMCRA and the Federal regulations.

Paragraph (c) of section 10 limits the liability of participants in the bond pool for reclamation of areas disturbed by other operators to fees paid into the pool. This paragraph also does not have a Federal conterpart. The Director, however, finds this provision to limit the liability of pool participants to be not inconsistent with SMCRA and the Federal regulations.

IV. Disposition of Comments

OSM solicited public comment and provided opportunity for a public hearing on the proposed amendment. The Indiana Coal Council, Inc. (ICC) submitted comments during the public comment period which closed on June 9, 1988 (Administrative Record No. IND–0590). No other comments pertaining to SEA 231 were received by mail or presented during the hearing which was held on June 6, 1988.

The ICC expressed support for SEA 231. They considered it an innovative, well-balanced and sensible piece of legislation and provided specific comments on the reclamation bond pool provisions.

The ICC believes the pool contains certain safeguards that minimize the risk of default. The ICC pointed out that membership in the pool is limited to responsible coal producers with little or no likelihood of bond forfeiture. To emphasize this point, the ICC stated that under the Indiana permanent program and for more than ten years under the prior State law, no coal operator meeting the standards for participation in the pool has ever forfeited reclamation bond in Indiana. No supporting documentation was provided.

OSM recognizes that participation in the pool is limited to those operators who, after May 3, 1978, have a five-year history of mining in Indiana and who are not subject to an outstanding cessation order and do not owe any fees required under the fund, the Indiana state program or SMCRA. OSM agrees with the ICC that such restrictions on participation in the pool serve to minimize the risk of default.

The ICC believes that by requiring Phase I reclamation to be covered by conventional surety, collateral, or self-bond, the pool contains a safeguard against excessive claims. OSM agrees that non-pool coverage of Phase I reclamation will offset demands upon the pool. However, the extent of non-pool coverage is limited to the face amount of the surety instrument. If this amount is insufficient to complete reclamation or if the non-pool source of coverage is in default, the pool as originally proposed on March 18, 1988, would have been required to make up the shortfall. Section 9 of the IC 13–4.1–6.5 as amended corrects this problem by requiring a separate surety instrument in an amount sufficient to complete Phase I reclamation and by specifying that money in the pool is available only for completion of reclamation necessary to achieve Phase II and Phase III bond release. Thus, the pools exposure is limited to the final two phases of bond release.

OSM does not accept ICC's comment that previous bond forfeitures in Indiana have occurred prior to grading release and are not indicative of the exposure of the fund. The IDNR revoked seven permits involving approximately 464 acres during 1987 and 1988 (Administrative Record No. IND–0645). About half of this acreage was backfilled and graded at the time of revocation. Therefore, OSM believes it reasonable to assume that forfeiture if it occurs will happen both prior to and following grading release.

The ICC also argued that because the pool is voluntary it involves variable factors which cannot be accurately quantified in advance. OSM agrees that it is not possible to predict with certainty such things as the number of acres included in the pool or the rate of forfeiture. However, reasonable estimates can be developed and the overall financial soundness of the pool can be determined. SMCRA and the Federal regulations require this before the approval of alternative bonding systems.

Members of the Indiana Bond Pool Committee and pool participants urged OSM to approve the amendment. OSM acknowledges the concern of committee members and pool participants and is appreciative of their efforts to establish a reclamation bond pool that satisfies the requirements of SMCRA.

V. Director's Decision

Based upon the above findings, the Director is approving, with an exception, the amendment presented in SEA No. 231 as submitted on March 18, 1988, and modified on October 18, 1989, and June 4, 1991. The Director has determined that the amendment, with the exception of proposed IC 13–4.1–6.5–8(d), is no less stringent than SMCRA and consistent with regulations issued by the Secretary of Interior. The Director has also determined that it is necessary to require Indiana by June 30, 1992, to complete an actuarial study of the bond pool and to recalculate the performance bonds of all existing bond pool members. The Federal regulations at 30 CFR 914 codifying decisions concerning the Indiana program are being amended to implement this decision.

Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alteration of an approved State program be submitted to OSM for review as a program amendment. Thus, any changes to the State program are not operational until approved by OSM. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approve State programs. In the oversight of the Indiana program, the Director will recognize only the statutes, regulations and other materials approved by him, together with any consistent implementing policies, directives and other materials, and will require the enforcement by Indiana of only such provisions.

VI. Procedural Determinations

National Environmental Policy Act

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

Executive Order 12291 and the Regulatory Flexibility Act

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

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

Executive Order 12778

This rule has been reviewed under the principles set forth in section 2 of E.O. 12778 (56 FR 55195, October 25, 1991) on Civil Justice Reform. The Department of the Interior has determined that, to the

extend allowed by law, the regulation meets the applicable standards of section 2(a) and 2(b) of E.O. 12778. Under SMCRA section 405 and 30 CFR 884 and section 503(a) and 30 CFR 732.15 and 732.17(h)(10), the agency decision on State program submittals must be based solely on a determination of whether the submittal is consistent with SMCRA and the Federal regulations. The only decision allowed under the law is approval, disapproval or conditional approval of State program amendments.

Paperwork Reduction Act

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

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 17, 1992.

Jeffrey D. Jarrett,

Acting Assistant Director, Eastern Support Center.

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

PART 914—INDIANA

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

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

2. Section 914.15 is amended by adding a new paragraph (ll) to read as follows:

§ 914.15 Approval of regulatory program amendments.

* * * * *

(ll) The following amendment submitted to OSM on March 18, 1988, and modified on October 18, 1989, and June 4, 1991, is approved, except as noted herein, effective April 20, 1992. The approved amendment consists of the following revisions to the Indiana regulations:

IC 13–4.1–6.5—Establishment of the surface coal mine reclamation bond pool with the exception of IC 13–4.1–6.5–8(d) which pertains to the suspension of annual acreage fees for bond pool participants.

IC 13–4.1–6–8—Dedication of a minimum of $500,000 within the post-1977 abandoned mine reclamation fund as collateral for the surface coal mine reclamation bond pool.

3. Section 914.16 is amended by adding a new paragraph (h) to read as follows:

§ 914.16 Required program amendments.

* * * * *

(h) By June 30, 1992, Indiana shall complete:

(1) An actuarial study of the surface coal mine reclamation bond pool as set forth in OSM and IDNR Cooperative Agreement GR 193184, and shall initiate action to implement any forthcoming recommendations on participant fees and other matters affecting the long-term solvency of the pool.

(2) The recalculation of performance bonds for all existing bond pool members and, if indicated, require the submission of additional Phase I performance bond.

[FR Doc. 92–8990 Filed 4–17–92; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final Rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Judge Advocate General of the Navy has determined that USS GEORGE WASHINGTON (CVN 73) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions as a naval aircraft carrier. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: March 30, 1992.

FOR FURTHER INFORMATION CONTACT: Captain R.R. Rossi, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400, Telephone number: (703) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Judge Advocate General of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS GEORGE WASHINGTON (CVN 73) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Rule 21(a), pertaining to the location of the masthead lights over the fore and aft centerline of the ship; Annex I, section 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship; Annex I, section 2(g), pertaining to the distance of the sidelights above the hull, without interfering with its special function as a Navy ship. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is bassed on technical findings that the placement of lights on this ship in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine Safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR part 706 is amended as follows:

1. The authority citation for 32 CFR part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Two of § 706.2 is amended by adding the following Navy ship to the list of vessels therein to indicate the certifications issued by the Secretary of the Navy:

TABLE TWO

Vessel	Number	Masthead lights, distance to stbd of keel in meters: Rule 21(a).	Forward anchor light, distance below flight deck in meters: Part 2(k), Annex I.	Forward anchor light, number of: Rule 30(a)(i)	AFT anchor light, distance below flight deck in meters: Rule 21(e), Rule 30(a)(ii)	AFT anchor light, number of: Rule 30(a)(ii)	Side lights, distance below flight deck in meters: Part 2(g), Annex I.	Side lights, distance forward of forward masthead light in meters: Part 3(b), Annex I.	Side-lights, distance inboard of ship's sides in meters: Part 3(b), Annex I.
GEORGE WASHINGTON	CVN 73	30.0					0.6		

2. Table Five of § 706.2 is amended by adding the following Navy ship to the list of vessels therein to indicate the certifications issued by the Secretary of the Navy:

Vessel	Number	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
USS GEORGE WASHINGTON	CVN73		X		

Dated: March 30, 1992.
Approved:
J.E. Gordon,
Rear Admiral, JAGC, U.S. Navy, Judge Advocate General.
[FR Doc. 92-9052 Filed 4-17-92; 8:45 am]
BILLING CODE 3810-01-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Deparment of the Navy, DOD.
ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Judge Advocate General of the Navy has determined Large Harbor Tug YTB 757 to be a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special functions as a naval vessel. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: March 30, 1992.

FOR FURTHER INFORMATION CONTACT: Captain R.R. Rossi, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (703) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Judge Advocate General of the Navy, under authority delegated by the Secretary of the Navy, has certified that Large Harbor Tug YTB 757 is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(c), pertaining to the location of the sternlight; Rule 24(c), pertaining to the towing lights displayed by power driven vessels when pushing ahead or towing alongside; Rule 27(b)(i), pertaining to the lights displayed by vessels restricted in their ability to maneuver; Annex I, section 2(a)(i), pertaining to the height above the hull of the masthead light; and Annex I, section 3(b), pertaining to the placement of the sidelights, without interfering with its special function as a naval vessel. YTB 757 is a tug of special construction and functions. It performs towing services for naval vessels. The mast of this tug is hinged and is lowered only when actually engaged in towing alongside or pushing ships having radically flared bows or sponsoned sides and sterns. When the mast is in the lowered position, the masthead lights, and task lights mounted on this mast, cannot be displayed. During such operations only the pilot house top-mounted auxiliary masthead light, sidelights, and sternlight will be exhibited. The Judge Advocate General of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine Safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR part 706 is amended as follows:

1. The authority citation for 32 CFR part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table Three of § 706.2 is amended by adding the following vessel:

Vessel	Number	Masthead light arc of visibility rule 21(A)	Side lights arc of visibility rule 21(B)	Stern lights arc of visibility rule 21(C)	Side lights distance inboard of ship sides in meters annex I section 3(b)	Stern lights distance forward of stern in meters rule 21(C)	Forward anchor lights height above hull in meters annex I section 2(k)	Anchor lights relationship of aft light to forward light in meters Annex I section 2(k)
OSHKOSH	YTB 757				2.70	13.30		

3. Paragraph 14, Table Four of § 706.2 is amended by adding the following vessel:

Vessel number	Distance in meters of aux. masthead light below minimum required height. Annex 1 § 2(a)(i)
	3.40

Dated: March 30, 1992.

J.E. Gordon,

Rear Admiral, JAGC, U.S. Navy, Judge Advocate General.

[FR Doc. 92-9053 Filed 4-17-92; 8:45 am]

BILLING CODE 3810-01-M

POSTAL SERVICE

39 CFR Part 111

Matter Eligible for Second-Class Rates

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: Provisions are added to Domestic Mail Manual section 429.1 to provide further guidance on what may be mailed at the second-class rates of postage.

EFFECTIVE DATE: April 20, 1992.

FOR FURTHER INFORMATION CONTACT: Leo F. Raymond, (202) 268-5199.

SUPPLEMENTARY INFORMATION: Enclosures and supplements to authorized second-class publications may be mailed at the second-class rates of postage as prescribed by the Postal Service. Domestic Mail Classification Schedule 200.013. The Domestic Mail Manual (DMM) sets forth detailed provisions on permissible supplements; see DMM 429.11. Among these provisions are rules specifying the minimum amount of nonadvertising matter in loose supplements to bound publications, and that independent publications, products and product samples, other publications of the publisher, and other material not added to complete the second-class publication or which is otherwise ineligible for second-class rates, may not qualify as supplements. DMM 429.112f and 429.113c. Postal regulations also state that a minor portion of each copy of an issue of a second-class publication may consist of novelty pages prepared specifically for and intended as integral pages of that second-class publication. DMM 429.151. The Postal Service has applied these, and other rules, in mail classification decisions concerning what material may be mailed at the second-class rates.

After review of some mailers' practices, the Postal Service has determined to amend its regulations to provide more explicit guidance to mailers concerning eligibility for second-class rates. Each of these amendments is consistent with the standards long used in issuing classification decisions. The amendment to DMM 429.113 makes it clear that miscellaneous independent printed sheets may not be grouped together, by an envelope, wrapper, or other means, and offered as a single supplement. Instead, each such sheet is considered a distinct item and treated accordingly for classification purposes. The amendment to DMM 429.113c provides that the requirement that supplements contain at least 25 percent nonadvertising matter is applied individually to each supplement offered for entry with a second-class publication and that this percentage is to be determined in the same manner used by the publisher to compute the percentage of advertising and nonadvertising matter in the host second-class publication under DMM 461.2. Finally, to confirm that printed material otherwise not qualified for second-class rates may not be "tipped-on" or otherwise affixed to the outside of a second-class publication, the amendment to DMM 429.151 states that printed sheets, including envelopes, affixed in any manner to the outside of the front or back cover of a second-class publication are not integral pages of that publication, and therefore may not be considered novelty pages.

Further, the Postal Service has determined that these amendments should be effective immediately. As explained above, the revisions are consistent with the current regulations and their application in mail classification decisions. Thus, there is no need for delay in implementation as there could be for amendments requiring customers to change their mailing practices. Moreover, by providing more explicit guidance concerning existing rules, the new amendments should facilitate customers' use of the postal system. Accordingly, although exempt from the notice and comment provisions of the Administrative Procedure Act (5 U.S.C. 553 (b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service has determined that, if the Postal Service were not exempt from the provisions of the Administrative Procedure Act, notice and comment rulemaking and a delayed effective date would not be required.

The Postal Service adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR part 111.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001-3011, 3201-3219, 3403-3406, 3621, 5001.

2. Part 429 of the Domestic Mail Manual is amended as follows:

429 Mailpiece Characteristics

429.1 Internal Characteristics

429.11 Supplements

* * * * *

429.113 Loose Supplement to a Bound Publication

[Add the following at the beginning of the section:] For purposes of this section, each sheet of an unbound collection of two or more miscellaneous printed sheets is deemed a single loose supplement and must comply with each of the following requirements whether or not the sheets are enclosed in an envelope, wrapper, or other container. * * *

* * * * *

c. [Add the following after the first sentence:] The publisher must determine the percentage of space devoted to advertising and nonadvertising matter in the supplement in the same manner used to determine the percentage of advertising and nonadvertising space in the host publication (see 461.2).

* * * * *

429.15 Novelty Pages

429.151 Definition

[Add the following after the second sentence:] For purposes of this section, a printed sheet, including one in the form of an envelope, affixed to the outside of the front or back cover of the second-class publication, is not considered an integral page of that publication.

* * * * *

A transmittal letter making these changes in the Domestic Mail Manual will be published and transmitted automatically to subscribers. Notice of issuance of the transmittal letter will be published in the Federal Register as provided by 39 CFR 111.3.

Stanley F. Mires,

Assistant General Counsel, Legislative Division.

[FR Doc. 92-9014 Filed 4-17-92; 8:45 am]

BILLING CODE 7710-12-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 249

[Docket No. R-143]

Clarifying Eligibility Criteria for Foreign Underwriters of Marine Hull Insurance

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice clarification eligibility criteria in final rule.

SUMMARY: This document clarifies an eligibility requirement for foreign marine hull insurance underwriters to write marine hull insurance on Maritime Administration (MARAD) program vessels.

DATES: The effective date of this clarification is July 20, 1988. The comment period expires June 4, 1992.

ADDRESSES: Submit written comments to the Secretary, Maritime Administration, Department of Transportation, room 7300, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Michael P. Ferris, Office of Ship Operating Assistance (202) 366-2324.

SUPPLEMENTARY INFORMATION: The final rule governing the placement of marine hull insurance on subsidized and title XI vessels is found in 46 CFR part 249. The rule became effective on July 20, 1988. Section 249.6 of the rule states that "only those foreign underwriters who have obtained a high rating (A or comparable) from an accepted international rating service may apply" for approval to write marine hull insurance on MARAD program vessels. At the time the rule was published, there was only one rating service with broad international insurance company coverage: Insurance Solvency International (ISI). Standard & Poor (S&P) also rated international insurance companies, but not as extensively as ISI. Consequently, MARAD has relied mainly on ISI's ratings to determine foreign underwriter eligibility.

S&P bought ISI in 1990 to strengthen and expand S&P's international insurance coverage. The companies' rating services are slowly being integrated, with S&P's ratings superseding ISI's when both rate the same company. The purpose of this notice is to clarify eligibility criteria to include a comparable rating to (ISI's) "A." It has been determined that S&P's "BBB" claims-paying ability rating is comparable to (ISI's) "A."

Dated: April 14, 1992.

James E. Saari,

Secretary.

[FR Doc. 92-9009 Filed 4-17-92; 8:45 am]

BILLING CODE 4910-81-M

OFFICE OF PERSONNEL MANAGEMENT

48 CFR Parts 1602, 1609, 1632 and 1652

RIN 3206-AE66

Federal Employees Health Benefits Program; Letter of Credit Provisions

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations that: (1) Reflect a revised system of making recurring premium payments to experience-rated Federal Employees Health Benefits (FEHB) Program carriers on a letter of credit (LOC) basis; (2) Implement section 7002(b) of Public Law 101-508, the Omnibus Budget Reconciliation Act of 1990 which specifies that, to the maximum extent practicable, payments to FEHB plans participating in an LOC arrangement shall be made on a "checks-presented" basis; (3) Relocate the regulations on minimum standards for health benefit carriers at 5 CFR 890.202 to the Contractor Qualifications section at 48 CFR 1609.70; and (4) Relocate the regulations on recurring premium payments to carriers at 5 CFR 890.505 to the Contract Financing section at 48 CFR 1632.170.

DATES: Interim rule effective May 20, 1992.

Comments must be received on or before June 19, 1992.

ADDRESSES: Written comments may be sent to Andrea S. Minniear, Assistant Director for Retirement and Insurance Policy, Retirement and Insurance Group, Office of Personnel Management, P.O. Box 57, Washington, DC 20044, or delivered to OPM, room 4351, 1900 E Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Abby L. Block, (202) 606-0191.

SUPPLEMENTARY INFORMATION: On September 6, 1988, OPM published interim regulations in the Federal Register (53 FR 34305 and 53 FR 34320) and on December 23, 1988, final regulations in the Federal Register (53 FR 51741 and 53 FR 51781) that required the use of letter of credit (LOC) arrangements for Federal Employees Health Benefits (FEHB) Program payments to certain experience-rated carriers.

When the LOC arrangements were first established, payments from the LOC accounts to the carriers were made through a Department of the Treasury system, the Treasury Financial Communications System—Letter of Credit (TFCS-LOC). The TFCS-LOC was phased out by Treasury and replaced for the FEHB Program in early 1991 with a system developed by OPM and operated according to guidelines issued by OPM.

On November 5, 1990, Public Law 101-508 was enacted. Section 7002(b) of Public Law 101-508, requires that payments from the Employees Health Benefits Fund to a plan participating in an LOC arrangement shall be made, to

the maximum extent practicable, on a checks-presented basis. This new payment requirement became effective for contract years beginning on or after January 1, 1991. Currently, OPM regulations allow payments from LOC accounts to be made on a checks-presented basis (formerly called the checks paid technique but now called checks-presented to conform with the designation in the law; the two terms have an identical meaning), the delay of drawdown technique, or both.

This interim regulation adds part 1609, Contractor Qualifications, subpart 1609.70 and § 1609.701, Minimum standards for health benefits carriers, which incorporates unchanged, except for adjustments in regulatory citations, the regulatory language removed from 5 CFR 890.202.

This interim regulation also amends § 1632.170, the section on recurring premium payments to carriers, by incorporating the regulatory language removed from 5 CFR 890.505. In addition, the section is amended to:

- Remove the minimum amount of annual payments an experience-rated plan must receive in order to be paid on an LOC basis. Previously, in order to comply with Treasury regulations, only experience-rated plans that received a total of $120,000 or more during the contract year were paid on an LOC basis. Now, all experience-rated plans will receive payments on an LOC basis;
- Remove from regulation the reference to the ability of underwriters to make drawdowns from carriers' LOC accounts. OPM guidelines allow a carrier to delegate its authority to make drawdowns from its LOC account to the underwriter of its plan;
- Remove from regulation the limit on the number of drawdowns per day from an LOC account and the specifications regarding the time of day the requests for drawdowns must be presented to the Department of the Treasury. The limit on, and timing of, drawdowns now will be specified in guidelines issued by OPM;
- Remove OPM's authority to grant an exception to the effective date of the LOC payment arrangement because this authority is no longer necessary; and
- Implement section 7002(b) of Public Law 101–508 by providing that drawdowns from LOC accounts will be made, where practicable, on the "checks-presented" basis. OPM may waive the requirement that drawdowns be made on the checks-presented basis and allow the plan to adopt an alternative drawdown methodology, subject to OPM approval. In order to receive a waiver, a carrier must demonstrate to OPM's satisfaction that the restriction of LOC disbursements to a check-presented basis is clearly and significantly detrimental to the operation of the plan.

This interim regulation also amends parts 1602 and 1652 to:

- Make it clear that most reserves of experience-rated carriers are now held in the carriers' LOC accounts and not by the carriers;
- Remove the citation of Department of the Treasury regulations because the Department of the Treasury no longer processes LOC transactions. LOC accounts for the FEHB Program are now administered through a system developed by OPM and operated according to guidelines issued by OPM; and
- Specify that all experience-rated plans will now receive payments on an LOC basis.
- An interim regulation amending 5 CFR part 890 to conform to the LOC payment arrangement for FEHB Program contracts is published elsewhere in this issue of the **Federal Register**

Waiver of Notice of Proposed Rulemaking

Pursuant to section 553(b)(3)(B) of title 5 of the U.S. Code, I find that good cause exists for waiving the general notice of proposed rulemaking. This notice is being waived because: (1) The change in LOC drawdowns cited in this regulation was contained in Public Law 101–508 and has been in effect since January 1, 1991; and (2) the revised LOC system cited in this regulation has been operating since early 1991. This regulation is effective 30 days after publication so that OPM regulations will conform with the current LOC system and the law as recently amended.

Executive Order 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of Executive Order 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they primarily affect the administrative procedures used by OPM and FEHB plans.

List of Subjects in 48 CFR Parts 1602, 1609, 1632, and 1652

Administrative practice and procedure, Government contracts, Health insurance.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

Accordingly, OPM is amending chapter 16 of 48 CFR as follows:

PART 1602—DEFINITIONS OF WORDS AND TERMS

1. The authority citation for part 1602 continues to read as follows:

Authority: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

2. Section 1602.170–9 is amended by removing the phrase "established in 31 CFR part 205" and the commas that set it off, and the term "carrier-held reserves," and the quotes that set it off.

PART 1609—CONTRACTOR QUALIFICATIONS

1. Part 1609 is added to read as follows:

PART 1609—CONTRACTOR QUALIFICATIONS

Subpart 1609.70 Minimum Standards for Health Benefits Carriers

1609.701 Minimum standards for health benefits carriers.

Authority 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

Subpart 1609.70 Minimum Standards for Health Benefits Carriers

1609.701 Minimum standards for health benefits carriers.

(a) The carrier of an approved health benefits plan shall meet the requirements of chapter 89 of title 5, United States Code; part 890 of title 5, Code of Federal Regulations; chapter 1 of title 48, Code of Federal Regulations, and the following standards. The carrier shall continue to meet the requirements of chapter 89 of title 5, United States Code, and the standards cited in this paragraph while under contract with OPM. Failure to meet these requirements and standards is cause for OPM's withdrawal of approval of the health benefits carrier and termination of the contract in accordance with 5 CFR 890.204.

(1) It must be lawfully engaged in the business of supplying health benefits.

(2) It must have, in the judgement of OPM, the financial resources and experience in the field of health benefits to carry out its obligations under the plan.

(3) It must keep such reasonable financial and statistical records, and furnish such reasonable financial and statistical reports with respect to the plan, as may be requested by OPM.

(4) It must permit representatives of OPM and of the General Accounting Office to audit and examine its records and accounts which pertain, directly or indirectly, to the plan at such reasonable times and places as may be designated by OPM or the General Accounting Office.

(5) It must accept, subject to adjustment for error or fraud, in payment of its charges for health benefits for all enrollees in its plan, the enrollment charges received by the Employees Health Benefits (EHB) Fund less amounts set aside for the administrative and contingency reserves prescribed in 5 CFR 890.503. OPM makes available or pays the amounts within 30 days of receipt by the EHB Fund.

(6) A carrier that is an employee organization must continue coverage, without requirement of membership, of any eligible survivor annuitants, former spouses continuing coverage with the carrier under 5 CFR 890.803, children temporarily continuing coverage with the carrier under 5 CFR 890.1103(a)(2), or former spouses temporarily continuing coverage with the carrier under 5 CFR 890.1103(a)(3).

(b) In addition to the standards in paragraph (a) of this section, the carrier must perform the contract in accordance with prudent business practices. A carrier's sustained poor business practice in the management or administration of a health benefits plan is cause for OPM's withdrawal of approval of the health benefits carrier and termination of the carrier's contract. Prudent business practices include, but are not limited to, the following:

(1) Timely compliance with OPM instructions and directives.

(2) Legal and ethical business and health care practices.

(3) Compliance with the terms of the FEHB contract, regulations and statutes.

(4) Timely and accurate adjudication of claims or rendering of medical services.

(5) A system for accounting for costs incurred under the contract, when required, which includes segregating and pricing FEHB medical utilization and allocating indirect and administrative costs in a reasonable and equitable manner.

(6) Accurate accounting reports of actual, allowable, allocable, and reasonable costs incurred in the administration of the contract.

(c) The following types of activities are examples of poor business practices which adversely affect the health benefits carrier's responsibility under its contract. A pattern of poor conduct or evidence of misconduct in these areas is cause for OPM to withdraw approval of the carrier:

(1) Presenting false claims by charging expenses to the contract which according to the contract terms are not chargeable to the contract;

(2) Using fraudulent or unethical business or health care practices or otherwise displaying a lack of business integrity or honesty;

(3) Repeatedly and knowingly providing false or misleading information in the rate setting process;

(4) Repeated failure to comply with OPM instructions and directives;

(5) Having an accounting system that is incapable of separately accounting for costs incurred under the contract and/or that lacks the internal controls necessary to fulfill the terms of the contract; and

(6) Failure to assure that the plan provides properly paid or denied claims, or providing medical services which are inconsistent with standards of good medical practice.

(d) The Director or his or her designee will determine whether to propose withdrawal of approval and hold a hearing based on the seriousness of the carrier's actions and its proposed method to effect corrective action.

PART 1632—CONTRACT FINANCING

1. The authority citation for part 1632 continues to read as follows:

Authority: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

2. Section 1632.170 is revised to read as follows:

1632.170 Recurring premium payments to carriers.

(a) *Recurring payments to carriers of community-rated plans.* OPM will pay to carriers of community-rated plans the premium payments received for the plan less the amounts credited to the contingency and administrative reserves. Premium payments will be due and payable not later than 30 days after receipt by the Federal Employees Health Benefits (FEHB) Fund.

(b)(1) *Recurring payments to carriers of experience-rated plans.* OPM will make payments on a letter of credit (LOC) basis. Premium payments received for the plan, less the amounts credited to the contingency and administrative reserves, will be made available for carrier drawdown not later than 30 days after receipt by the FEHB Fund. In addition, contingency reserve and interest distribution payments will be made available for carrier drawdown from the LOC account. Carriers will use the LOC account in accordance with guidelines issued by OPM.

(2) Withdrawals from the LOC account will be made on a checks-presented basis. Under a checks-presented bases, drawdown on the LOC is delayed until the checks issued for FEHB Program disbursements are presented to the carrier's bank for payment.

(3) OPM may grant a waiver of the restriction of LOC disbursements to a checks-presented basis if the carrier requests the waiver in writing and demonstrates to OPM's satisfaction that the checks-presented basis of LOC disbursements will result in significantly increased liability under the contract, or that the checks-presented basis of LOC disbursements is otherwise clearly and significantly detrimental to the operation of the plan. Payments to carriers that have been granted a waiver may be made by an alternative payment methodology, subject to OPM approval.

3. Section 1632.171 is revised to read as follows:

1632.171 Clause—community-rated contracts.

The clause at 1652.232–70 shall be inserted in all community-rated FEHBP contracts.

4. Section 1632.172 is revised to read as follows:

1632.172 Clause—experience-rated contracts.

The clause at 1652.232–71 shall be inserted in all experience-rated FEHBP contracts.

PART 1652—CONTRACT CLAUSES

1. The authority citation for part 1652 continues to read as follows:

Authority: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

1652.216–71 [Amended]

2. In § 1652.216–71, paragraph (c)(3)4. is amended by removing "31 CFR part 205" and the comma that sets it off at the end.

1652.232–70 [Amended]

3. Section 1652.232–70 is amended by revising the section heading and introductory text to read as follows:

1652.232–70 Payments—community-rated contracts.

As prescribed in 1632.171, the following clause shall be inserted in all community-rated FEHBP contracts:

* * * * *

1652.232–71 [Amended]

4. In section 1652.232–71, paragraph (d) is amended by removing "reserves held by the Carrier" and replacing it

with "Carrier reserves" and the section heading and introductory text are revised to read as follows:

1652.232-71 Payments—experience-rated contracts.

As prescribed in 1632.172, the following clause shall be inserted in all experience-rated FEHBP contracts:

* * * * *

[FR Doc. 92-9021 Filed 4-17-92; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 630

[Docket No. 910640-1140]

Atlantic Swordfish Fishery

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

ACTION: Notice of closure of the drift gillnet fishery.

SUMMARY: The National Marine Fisheries Service (NMFS) closes the drift gillnet fishery for swordfish from the North Atlantic swordfish stock. NMFS has determined that the quota for swordfish that may be harvested by drift gillnet during the period January 1 through June 30, 1992, will be reached on or before April 22, 1992. This closure is necessary to protect the swordfish resource.

EFFECTIVE DATES: Closure is effective April 23, 1992, through June 30, 1992.

FOR FURTHER INFORMATION CONTACT: Richard B. Stone, 301-713-2347.

SUPPLEMENTARY INFORMATION: The Atlantic swordfish fishery is managed under the Fishery Management Plan for Atlantic Swordfish and its implementing regulations at 50 CFR part 630 under the authority of the Magnuson Fishery Conservation and Management Act and the Atlantic Tunas Convention Act. The implementing regulations set a swordfish quota of 40,785 pounds (18,500 kilograms), dressed weight, that may be harvested by drift gillnet during the semi-annual period January 1 through June 30, each year.

Under 50 CFR 630.25(a)(1), NMFS is required to close the drift gillnet fishery for swordfish when its quota is reached, or is projected to be reached, by publishing a notice in the Federal Register. Such closure may not be effective until at least 8 days after the notice is filed with the Office of the Federal Register. NMFS has determined that the drift gillnet swordfish quota of 40,785 pounds will be reached on or before April 22, 1992. Accordingly, the drift gillnet fishery for Atlantic swordfish is closed effective 0001 hours, local time, April 23, 1992, through June 30, 1992. An additional quota of 40,785 pounds becomes available for the drift gillnet fishery on July 1, 1992.

During this closure of the drift gillnet fishery, aboard a vessel using or having aboard a drift gillnet (1) a person may not fish for swordfish from the North Atlantic swordfish stock; and (2) no more than two swordfish per trip may be possessed in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5 °N. latitude, or landed in an Atlantic, Gulf of Mexico, or Caribbean coastal state. A swordfish in or from the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5 °N. latitude, may not be transferred at sea. Other Matters

This action is required by 50 CFR 630.25(a)(1) and complies with E.O. 12291.

Authority: 16 U.S.C. 1801 *et seq* and 16 U.S.C. 971 *et seq.*

List of Subjects in 50 CFR Part 630

Fisheries, Fishing, Reporting and recordkeeping requirements, Treaties.

Dated: April 15, 1992.

David S. Crestin,

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

[FR Doc. 92-9096 Filed 4-15-92; 2:57 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 76
Monday, April 20, 1992

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.

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

[Regulation H, Regulation Y; Docket No. R-0756]

Capital; Capital Adequacy Guidelines

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed revisions to capital adequacy guidelines.

SUMMARY: The Board is proposing to modify its capital adequacy guidelines for state member banks and bank holding companies to lower the risk weight assigned to certain multifamily housing loans and to certain collateralized transactions. The proposed modification with regard to multifamily housing is intended to implement provisions of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (RTC Refunding Act), while the second proposed modification is aimed at placing U.S. banking organizations on a more equal footing with foreign banks subject to the Basle Accord with regard to capital requirements for certain low-risk collateralized transactions.

DATES: Comments on the proposed revisions to the Federasl Reserve Board's risk-based capital guidelines should be submitted on or before May 15, 19892.

ADDRESSES: Comments, which should refer to Docket No. R-0756, may be mailed to the Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551, to the attention of Mr. William Wiles, Secretary. Comments addressed to the attention of Mr. Wiles may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street NW. Comments may be inspected in room B-1122 between 9 a.m. and 5 p.m. weekdays, except as provided in section 261.8 of the Board's Rules Regarding Availability of Information 12 CFR 261.8.

FOR FURTHER INFORMATION CONTACT: Rhoger H. Pugh, Manager (202/728-5883), Norah M. Barger, Supervisory Financial Analyst (202/452-2402), Kelly S. Shaw, Supervisory Financial Analyst (202/452-3054), Robert E. Motyka, Senior Financial Analyst (202/452-3621), Division of Banking Supervision and Regulation; and Michael J. O'Rourke, Senior Attorney (202/452-3288), Legal Divison. For the hearing impaired only, Telecommunication Device for the Dear (TDD), Dorothea Thompson (202/452-3544).

SUPPLEMENTARY INFORMATION: The RTC Refunding Act (Pub. L. 102-233, 105 Stat. 1761), recently enacted by Congress contains provisions affecting the capital treatment of certain housing-related assets. In addition, since the Board initially published its risk-based capital guidelines implementing the international bank capital standards (Basle Accord),[1] questions have arisen with regard to differences between the domestic and nondomestic treatment of certain low-risk collateralized transactions. To address these developments, the Board is proposing to modify the risk-based capital guidelines for state member banks and bank holding companies to: (1) Lower the risk weight for multifamily housing loans meeting certain criteria from 100 percent to 50 percent, and (2) lower the risk weight for collateralized transactions that meet certain criteria from 20 percent to zero percent. Adoption of the first proposed modification would implement provisions of the RTC Refunding Act with regard to multifamily housing. Adoption of the second proposed modification would place U.S. banking organizations on a more equal footing with foreign banks subject to the Basle Accord with regard to capital requirements for certain low-risk collateralized transactions.

[1] The Basle Accord is a risk-based framework that was proposed by the Basle Committee on Banking Supervision and endorsed by the Central bank governors of the Group of Ten (G-10) countries in July 1988. The Committee is comprised of representatives of the central banks and supervisory authorities from the G-10 countries (Belgium, Canada, France, Germany, Italy, Japan, Netherlands, Sweden, Switzerland, the United Kingdom and the United States) and Luxembourg.

I. Proposal on Multifamily Housing Loans

The Basle Accord allows loans fully secured by mortages on residential property to receive a preferential risk weight of 50 percent. The Accord directs signatory countries to apply this concessionary risk weight restrictively and in accordance with strict prudential criteria. In adopting the risk-based capital guidelines, the Federal Reserve Board and the other federal banking agencies specified that only loans secured by first liens on 1- to 4-family residnetial properties that meet certain prudential criteria may be assigned to the 50 percent risk category. The guidelines also state that privately-issued mortgage-backed securities backed by mortgage loans qualifying for the 50 percent risk category and meeting other criteria, may receive a 50 percent risk weight. Loans secured by mortgages on multifamily housing were assigned to the 100 percent risk category because, historically, the loss experience on such loans have exceeded significantly the loss experience on single family mortgages. Teh Office of Thrift Supervision (OTS), however, in its risk-based capital rule for savings associations permits certain multifamily loans to be included in the 50 percent risk category.

Section 618(b) of the RTC Refunding Act (105 Stat. 1790-91), which Congress enacted last year, directs the federal banking agencies to amend their risk-based capital guidelines to lower the risk weight of certain multifamily housing loans, and securities backed by such loans, from 100 percent to 50 percent. The section specifies several criteria that a multifamily housing loan must satisfy in order to qualify for a 50 percent risk weight. These criteria are: (1) The loan is secured by a first lien, (2) the ratio of the principal obligation to the appraised value of the property, that is, the loan-to-value ("LTV") ratio, does not exceed 80 percent (75 percent if the loan is based on a floating interest rate), (3) the annual net operating income generated by the property (before debt service) is not less than 120 percent of the annual debt service on the loan (115 percent if the loan is based on a floating interest rate), (4) the term of the loan is not more than 30 years and not less than 7 years, and, (5) all principal and interest payments have been made on

time for a period of not less than one year. (This last criterion implies that no original financing of multifamily housing loans may be assigned to the 50 percent risk category.) The proposed modification to the risk-based capital guidelines with regard to the treatment of multifamily housing incorporates all of the criteria set forth in Section 618(b).

Section 618(b) also provides that multifamily housing loans accorded a 50 percent risk weight must meet any other underwriting characteristics that the appropriate federal banking agency may establish, consistent with the purposes of the minimum acceptable capital requirements to maintain the safety and soundness of financial institutions. In this regard, the federal banking agencies have agreed upon certain additional criteria. These additional criteria would ensure that only those multifamily housing loans for which future repayment prospects are certain and, as such, expose an institution to relatively low levels of credit risk, would receive the favorable 50 percent risk weight. The Board believes that these additional criteria are needed in order to conform the banking agencies' risk-based capital guidelines to the Basle Accord's directive that the 50 percent risk weight be applied restrictively to residential loans and in accordance with strict prudential criteria.

Accordingly, the Board is proposing that multifamily loans included in the 50 percent risk category meet not only the criteria specified in the legislation, but also the additional criteria that the banking agencies have agreed upon. The additional criteria are:

(1) The LTV ratio used for the purposes of the statutory criterion cited above is the LTV ratio based on the most current appraised value of the property, which normally would be the appraised value at the time the loan was originated, unless a more recent appraisal has been performed;

(2) The loan is performing in accordance with its orginal terms and is not more than 90 days past due nor carried in nonaccrual status;

(3) The average annual occupancy for the property securing the loan has been at least 80 percent for the preceding year; and

(4) The loan has been made in accordance with prudent underwriting standards.

The first additional criterion would permit banking organizations to use appraisals obtained at the time a multifamily housing loan was originated to establish that it meets the LTV ratio required for inclusion in the 50 percent risk category. Subsequent appraisals of a multifamily loan conducted for the purpose of assigning it to, or continuing to include it in, the 50 percent risk category will not be required. However, if for any reason a later appraisal were obtained and it reflected a decline in the value of a multifamily property that resulted in a LTV ratio exceeding the statutory standards, the associated loan would have to be reassigned to the 100 percent risk category. This requirement is consistent with requirements of the agencies' risk-based capital guidelines with regard to LTV ratios on loans secured by mortgages on 1- to 4-family residential properties that are included in the 50 percent risk category.

The second additional criterion essentially would require a multifamily real estate loan to remain current in order to continue to be included in the 50 percent risk category. This provision parallels requirements that loans secured by mortgages on 1- to 4-family residential properties must meet in order to be included in the 50 percent risk category.

The third additional criterion would impose a minimum occupancy rate on the property. This criterion is consistent with the OTS' current requirement that a property securing a multifamily housing loan must have had an annual average occupancy rate of at least 80 percent for at least one year in order for the loan to be placed in the 50 percent risk category. This occupancy provision is also intended to complement the statutorily mandated requirement on the minimum ratio of annual net income generated by the property to required debt service. While a high occupancy rate by itself does not necessarily ensure that a multifamily property will generate sufficient cash flow to service a loan secured by the property, the combination of cash flow and occupancy rate criteria in the proposed rule should increase the likelihood that the loan will be repaid. The occupancy rate criterion will further ensure that only those multifamily housing loans that are of high quality will receive a 50 percent risk weight.

The last criterion conforms to the Basle Accord specification that residential housing loans must be made in accordance with prudential criteria in order to qualify for a preferential risk weight. Compliance with prudent underwriting standards is designed to manage and control the credit risk inherent in the leanding process. The imposition of this requirement is also necessary in order to achieve consistent treatment between multifamily and single family housing loans under the Board's risk-based capital guidelines. To be considered prudently underwritten, a bank's files for a multifamily housing loan would need to contain, for example, a title policy or opinion, adequate fire/hazard/liability insurance, and other appropriate documentation.

The proposed revision to the risk-based capital guidelines to include certain loans secured by liens on multifamily residential property in the 50 percent risk category will have the effect of also placing privately-issued securities backed by such loans in the 50 percent risk category. The risk-based capital guidelines already state that privately-issued securities backed by mortgages that qualify for the 50 percent risk category may be assigned a 50 percent risk weight, provided that the securities meet certain structural requirements.

II. Proposal on Certain Collateralized Transactions

The Basle Accord assigns claims collateralized by cash and OECD central government securities to the zero percent risk weight. In proposing risk-based capital guidelines implementing the Accord, the federal banking agencies proposed assigning such claims to the 10 percent risk category in order to limit the amount of claims qualifying for the zero percent risk category and to address concerns arising from the operational risks associated with maintaining and liquidating collateral. When the agencies adopted the risk-based capital guidelines, they decided to eliminate the 10 percent risk category in the interest of simplicity and to assign claims collateralized by cash [2] and OECD central government securities (which include U.S.Government agency securities) to the lowest nonzero risk weight, 20 percent.[3]

Since the guidelines were issued, the Board has further reviewed the treatment of collateralized transaction, particularly, instances where the U.S. treatment of very low-risk collateralized transactions, such as certain indemnified securities lending transactions, may place U.S. banking organizations at a competitive disadvantage to foreign banks subject to the Basle Accord.

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[2] Cash collateral is not recognized under the risk-based capital framework unless it is on deposit in the lending bank or in the case of a bank holding company, on deposit in a subsidiary lending institution.

[3] A claim secured by cash or OECD government securities may be assigned to the 20 percent risk category only to the extent that the face amount of the claim is covered by the market value of the collateral. The portion of the claim that is not covered by recognized collateral is assigned to the risk category appropriate to the obligor or, if relevant, the guarantor.

In this regard, consideration has been given to whether the operational risks associated with certain collateralized transactions are minimal enough to justify placement in the zero percent risk category. In particular, a review was made of the possibility of assigning to the zero percent risk category claims collateralized by cash on deposit in the banking organization or by OECD central government or U.S. Government agency securities for which a positive collateral margin is maintained on a daily basis, fully taking into account any change in the banking organizations's exposure to the obligor or counterparty under a claim in relation to the market value of the collateral held in support that claim. After careful consideration of the issues involved, the Board has concluded that such transactions prudently could be assigned to the zero percent risk category in a manner that is consistent with the Bassle Accord. In such transactions, if the market value of the collateral received from the obligor or counterparty falls below 100 percent of the amount of the banking organization's exposure under the claim, the borrower is required to immediately post enough additional collateral to cover any shortfall and maintain a positive margin. The potential risk of loss is extremely limited since the market value of the collateral would have to decline substantially in relation to the banking organization's exposure under the claim on the very day the borrower defaults in order for the banking organization to incur a loss.

Consistent with the Basle Accord, the Board will continue to rquire that where a claim is collateralized by cash, the cash must be on deposit in the banking organization in order for the claim to receive a reduced risk weight. In this connection, the Board is proposing to clarify that where a banking organization is acting as agent for a customer in a securities lending transaction collateralized by cash delivered to the banking organization, the transaction is deemed to be collateralized by cash on deposit for purposes of determining the appropriate risk weight, provided that any indemnification is limited to the difference between the market value of the lent securities and the amount of cash received and any reinvestment risk associated with the cash collateral is borne by the customer.

While the Board is seeking comments on all aspects of its proposed mofications to its risk-based captial guidelines, it seeks specific comment on the following questions with regard to the proposed treatment for low-risk collateralized transactions:

(1) Should the Board set forth additional criteria in order to better ensure that only truly low-risk collateralized transactions are assigned to the zero percent risk category? For example, the Board could require a specific minimum positive margin percentage, or it could make this risk weight available only to institutions that have in place appropriate management and operating systems.

(2) Should the Board consider assigning a higher risk weight than zero percent to such transactions, for example, 10 percent?

III. Regulatory Flexibility Act Analysis

The Federal Reserve Board does not believe adoption of this proposal would have a significant economic impact on a substantial number of small business entities (in this case, small banking organizations), in accord with the spirit and purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). In this regard, the proposed revisions would reduce certain regulatory burdens on bank holding companies as it would reduce the capital charge on certain transactions. In addition, because the risk-based captial guidelines generally do not apply to bank holding companies with consolidated assets of less than $150 million, this proposal will not affect such companies.

List of Subjects

12 CRF Part 208

Accounting, Agricultural loan losses, Applications, Appraisals, Banks, banking, Branches, Capital adequacy, Confidential business information, Currency, Dividend payments, Federal Reserve System, Flood insurance, Publication of reports of condition, Reporting and recordkeeping requirements, Securities, State member banks.

12 CFR Part 225

Administrative practice and procedure, Appraisals, Banks, banking, Capital adequacy, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities, State member banks.

For the reasons set forth in this notice, and pursuant to the Board's authority under section 5(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(b)), and section 910 of the International Lending Supervision Act of 1983 (12 U.S.C. 3909), the Board is amending 12 CFR parts 208 and 225 as set forth below:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

1. The authority citation for part 208 continues to read as follows:

Authority: Sections 9, 11(a), 11(c), 19, 21, 25, and 25(a) of the Federal Reserve Act, as amended (12 U.S.C. 321–338, 248(a), 248(c), 461, 481–486, 601, and 611, respectively); sections 4 and 13(j) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1814 and 1823(j), respectively); section 7(a) of the International Banking Act of 1978 (12 U.S.C. 3105); sections 907–910 of the International Lending Supervision Act of 1983 (12 U.S.C. 3906–3909); sections 2, 12(b), 12(g), 12(i), 15B(c)(5), 17, 17A, and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78b, 78*l*(b), 78*l*(g), 78*l*(i), 780–4(c)(5), 78q, 78q-1, and 78w, respectively); section 5155 of the Revised Statutes (12 U.S.C. 36) as amended by the McFadden Act of 1927; and sections 1101–1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3310 and 3331–3351).

2. Appendix A to part 208 is amended by revising the last sentence in the first paragraph, adding a new sentence at the end of the first paragraph, and revising the first and second sentences of the second paragraph of section III.B.1.; adding a new paragraph at the end of section III.C.1.; revising the last paragraph of section III.C.2.; revising the first sentence and adding a new second sentence in the first paragraph of section III.C.3.; by adding a new sentence to the end of the last paragraph of section III.D.1.; and by adding a new item 5. under "Category 1: Zero Percent" and revising item 8. under "Category 2: 20 Percent" of Attachment III, to read as follows:

Appendix A to Part 208—Capital Adequacy Guidelines for State Member Banks: Risk-Based Measure

* * * * *

III. * * *

A. * * *

B. * * *

1. * * * Claims fully secured by such collateral generally are assigned to the 20 percent risk-weight category. Collateralized transactions meeting all the conditions described in section III.C.1. may be assigned a zero percent risk weight.

With regard to collateralized claims that may be assigned to the 20 percent risk-weight category, the extent to which qualifying securities are recognized as collateral is determined by their current market value. If such a claim is only partially secured, that is, the market value of the pledged securities is less than the face amount of a balance-sheet asset or an off-balance-sheet item, the portion that is covered by the market value of the qualifying collateral is assigned to the 20 percent risk category, and the portion of the claim that is not covered by collateral in the

form of cash or a qualifying security is assigned to the risk category appropriate to the obligor or, if relevant, the guarantor.
* * *

* * * * *

C. * * *
1. * * *
This category also includes claims collateralized by cash on deposit in the bank or by securities issued or guaranteed by OECD central governments or U.S. government agencies for which a positive margin of collateral is maintained on a daily basis, fully taking into account any change in the bank's exposure to the obligor or counterparty under a claim in relation to the market value of the collateral held in support of that claim.
2. * * *
This category also includes the portions of claims (including repurchase transactions) collateralized by cash on deposit in the bank or by securities issued or guaranteed by OECD central governments or U.S. government agencies that do not qualify for the zero percent risk-weight category; collateralized by securities issued or guaranteed by U.S. government-sponsored agencies; or collateralized by securities issued by multilateral lending institutions or regional development banks in which the U.S. government is a shareholder or contributing member.
3. * * * This category includes loans fully secured by first liens [34] on one- to four-family residential properties, either owner-occupied or retned, or on multifamily housing properties,[35] provided that such loans have been made in accordance with prudent underwriting standards, including a conservative loan-to-value ratio;[36] are performing in accordance with their original terms; and are not 90 days or more past due or carried in nonaccrual status. The following additional criteria also apply to loans secured by multifamily housing properties that are included in this category: In the year preceding placement in this category, all principal and interest payments must have been made on time and the average annual occupancy for the properties securing such loans must have been at least 80 percent; the original term of the loans must be not less than seven years and not more than 30 years; and the annual net operating income (before debt service) generated by the properties must not be less than 120 pecent of the loans' annual debt service (115 percent if the loans are based on a floating interest rate).[37] * * *

* * * * *

D. * * *
1. * * *
* * * Where a bank is acting as agent for a customer in a securities lending transaction collateralized by cash delivered to the bank, the transaction is deemed to be collateralized by cash on deposit in the bank for purposes of determining the appropriate risk-weight category, provided that any indemnification is limited to the difference between the market value of the securities lent and the cash received and any reinvestment risk associated with the cash collateral is borne by the customer.

* * * * *

Attachment III—Summary of Risk Weights and Risk Categories for State Member Banks

Category 1: Zero Percent

* * * * *

5. Claims collateralized by cash on deposit in the bank or by securities issued or guaranteed by OECD central governments or U.S. government agencies for which a positive margin of collateral is maintained on a daily basis, fully taking into account any change in the bank's exposure to the obligor or counterparty under a claim in relation to the market value of the collateral held in support of that claim.

Category 2: 20 Percent

* * * * *

8. The portions of claims that are collateralized [3] by cash on deposit in the bank or by securities issued or guaranteed by the U.S. Treasury, the central governments of other OECD countries, and U.S. government agencies that do not qualify for the zero percent risk-weight category, or that are collateralized by securities issued or guaranteed by U.S. government-sponsored agencies.

* * * * *

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

1. The authority citation for part 225 continues to read as follows:

Authority: 12 U.S.C. 817(j)(13), 1818, 1831i, 1843(c)(8), 1844(b), 3106, 3108, 3907, 3909, 3310, and 3331–3351.

2. Appendix A to part 225 is amended by revising the last sentence in the first paragraph, adding a new sentence at the end of the first paragraph, and revising the first and second sentences of the second paragraph of section III.B.1.; adding a new paragraph at the end of section III.C.1.; revising the last paragraph of section III.C.2.; revising the first sentence and adding a new second sentence in the first paragraph of section III.C.3.; by adding a new sentence at the end of the last paragraph of section III.D.1.; and by adding a new item 5. under "Category 1: Zero Percent" and revising item 8. under "Category 2: 20 Percent" of Attachment III, to read as follows:

Appendix A to Part 225—Capital Adequacy Guidelines for Bank Holding Companies: Risk-Based Measure

* * * * *

III. * * *
A. * * *
B. * * *
1. * * * Claims fully secured by such collateral generally are assigned to the 20 percent risk-weight category. Collateralized transactions meeting all the conditions described in section III.C.1. may be assigned a zero percent risk weight.
With regard to collateralized claims that may be assigned to the 20 percent risk-weight category, the extent to which qualifying securities are recognized as collateral is determined by their current market value. If such a claim is only partially secured, that is, the market value of the pledged securities is less than the face amount of a balance-sheet asset or an off-balance-sheet item, the portion that is covered by the market value of the qualifying collateral is assigned to the 20 percent risk category, and the portion of the claim that is not covered by collateral in the form of cash or a qualifying security is assigned to the risk category appropriate to the obligor or, if relevant, the guarantor. * * *

* * * * *

C. * * *
1. * * *
This category also includes claims collateralized by cash on deposit in the subsidiary lending institution or by securities issued or guaranteed by OECD central governments or U.S. government agencies for which a positive margin of collateral is maintained on a daily basis, fully taking into account any change in the banking organization's exposure to the obligor or counterparty under a claim in relation to the market value of the collateral held in support of that claim.
2. * * *
This category also includes the portions of claims (including repurchase transactions) collateralized by cash on deposit in the subsidiary lending institution or by securities issued or guaranteed by OECD central governments or U.S. government agencies that do not qualify for the zero percent risk-weight category; collateralized by securities issued or guaranteed by U.S. government-sponsored agencies; or collateralized by securities issued by multilateral lending institutions or regional development banks in which the U.S. government is a shareholder or contributing member.
3. * * *

---

[34] If a bank holds the first and junior lien(s) on a residential property and no other party holds an intervening lien, the transaction is treated as a single loan secured by a first lien for the purpose of determining the loan-to-value ratio.

[35] The types of properties that qualify as one- to four-family residences or multifamily housing are listed in the instructions to the commercial bank call report.

[36] For a loan secured by a multifamily residential property, the loan-to-value ratio would not be deemed conservative if it exceeds 80 percent (75 percent if the loan is based on a floating interest rate). For both multifamily and one- to four-family residential properties, the loan-to-value ratio is based upon the value of the property determined by the most current appraisal or, if appropriate for one- to four-family residential property, the most current evaluation. Normally this would be the appraisal or evaluation performed at the time the loan was originated.

[37] Residential property loans that do not meet all the specified criteria or that are made for the purpose of speculative property development are placed in the 100 percent risk category.

[3] The extent of collateralization is determined by current market value.

This category includes loans fully secured by first liens [37] on one- to four-family residential properties, either owner-occupied or rented, or on multifamily housing properties,[38] provided that such loans have been made in accordance with prudent underwriting standards, including a conservative loan-to-value ratio;[39] are performing in accordance with their original terms; and are not 90 days or more past due or carried in nonaccrual status. The following additonal criteria also apply to loans secured by multifamily housing properties that are included in this category: In the year preceding placement in this category, all principal and interest payments must have been made on time and the average annual occupancy for the properties securing such loans must have been at least 80 percent; the original term of the loans must be not less than seven years and not more than 30 years; and the annual net operating income (before debt service) generated by the properties must not be less than 120 percent of the loans' annual debt service (115 percent if the loans are based on a floating interest rate).[40]

* * *

* * * * *

D. * * *

1. * * *

* * * Where a banking organization is acting as agent for a customer in a securities lending transaction collateralized by cash delivered to the banking organization, the transaction is deemed to be collateralized by cash on deposit in a subsidiary lending institution for purposes of determining the appropriate risk-weight category, provided that any indemnification is limited to the difference between the market value of the securities lent and the cash received and any reinvestment risk associated with the cash collateral is borne by the customer.

* * * * *

Attachment III—Summary of Risk Weights and Risk Categories for Bank Holding Companies

Category 1: Zero Percent

* * * * *

5. Claims collateralized by cash on deposit in the subsidiary lending institution or by securities issued or guaranteed by OECD central governments or U.S. government agencies for which a positive margin of collateral is maintained on a daily basis, fully taking into account any change in the bank's exposure to the obligor or counterparty under a claim in relation to the market value of the collateral held in support of that claim.

Category 2: 20 Percent

* * * * *

8. The portions of claims that are collateralized [3] by cash on deposit in the subsidiary lending institution or by securities issued or guaranteed by the U.S. Treasury, the central governments of other OECD countries, and U.S. government agencies that do not qualify for the zero percent risk-weight category, or that are collateralized by securities issued or guaranteed by U.S. government-sponsored agencies

* * * * *

Board of Governors of the Federal Reserve System, April 10, 1992.

William W. Wiles,

Secretary of the Board.

[FR Doc. 92-8764 Filed 4-17-92; 8:45 am]

BILLING CODE 6210-10-M

[37] If a banking organization holds the first and junior lien(s) on a residential property and no other party holds an intervening lien, the transaction is treated as a single loan secured by a first lien for the purpose of determining the loan-to-value ratio.

[38] The types of properties that qualify as one- to four-family residences or multifamily housing are listed in the instructions to the FR 6-9C Report.

[39] For a loan secured by a multifamily residential property, the loan-to-value ratio would not be deemed conservative if it exceeds 80 percent (75 percent if the loan is based on a floating interest rate). For both multifamily and one- to four-family residential properties, the loan-to-value ratio is based upon the value of the property determined by the most current appraisal or, if appropriate for a one- to four-family residential property, the most current evaluation. Normally, this would be the appraisal or evaluation performed at the time the loan was originated.

[40] Residential property loans that do not meet all the specified criteria or that are made for the purpose of speculative property development are placed in the 100 percent risk category.

[3] The extent of collateralization is determined by current market value.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-NM-35-AD]

Airworthiness Directives; Airbus Industrie Model A300, A310, and A300-600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Industrie Model A300, A310, and A300-600 series airplanes. This proposal would require inspection of the Teleflex flexible control cable on the ram air turbine (RAT); corrective aciton ("Maintenance Task"), if necessary; and repetitive performance of those "Maintenance Tasks." This proposal is prompted by reports of the RAT Teleflex flexible cable jamming, which made it difficult to extend the RAT. The actions specified by the proposed AD are intended to prevent the failure of the RAT to release properly.

DATES: Comments must be received by June 3, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-35-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washingotn 98055-4056; telephone (206) 227-2140; fax (206) 227-1320.

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 shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications recieved 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 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 postcard on which the following statement is made: "Comments to Docket Number 92-NM-35-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No.

92–NM–35–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Industrie Model A300, A310, and A300–600 series airplanes. The DGAC advises that there have been reports of the ram air turbine (RAT) Teleflex flexible control cable jamming during ground tests, which made extending the RAT difficult. The cause of the jamming has been attributed to corrosion of the cable. Failure of the RAT to release properly, in the event of a two-engines-out situation, could result in loss of hydraulic power and reduced controllability of the airplane.

Airbus Industrie has issued the following service bulletins, which address the problem described:

Model	Service bulletin number and issue date
A300	A300–29–097, Revision 2, dated August 27, 1991.
A310	A310–29–2030, Revision 2, dated August 7, 1991.
A300–600	A300–29–6022, Revision 2, dated Aguust 27, 1991.

These service bulletins describe procedures for inspecting the Teleflex flexible cable on the RAT to determine proper operation; this procedure involves measuring the load needed to move the handle from the OFF to the ON position. The service bulletins also describe procedures for corrective actions, identified as "Maintenance Tasks," that involve checking, clearing, and greasing the Teleflex cable, and cleaning the cable sheath.

The DGAC classified these service bulletins as mandatory and issued French Airworthiness Directive 91–124–122(B)R1 in order to assure the continued airworthiness of these airplanes in France.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. 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 an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require inspection of the Teleflex flexible control cable on the RAT to determine if it operates correctly; performance of a corrective action, the "Maintenance Task," if necessary; and repeated performance of the "Maintenance Task."

The actions would be required to be accomplished in accordance with the applicable service bulletin described previously.

The FAA estimates that 127 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the initial inspection, and 14 work hours per airplane to accomplish the Maintenance Task. The average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $13,970 (or $110 per airplane) for the initial inspection, and $97,790 (or $770 per airplane) for each performance of the Maintenance Task.

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 proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the 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 regulatory evaluation prepared for this action is contained 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—AIRWORTHINESS DIRECTIVES

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:

Airbus Industrie: Docket 92–NM–35–AD.

Applicability: Model A300, A310, and A300–600 series airplanes, on which Modification 4803 has not been accomplished, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the ram air turbine (RAT) to release properly, accomplish the following:

(a) Within 6 months after the effective date of this AD, conduct a test of the RAT Teleflex flexible control cables to verify that the control cables operate properly (the load to move the handle must be equal to or lower than 5.5 daN), in accordance with Airbus Industrie Service Bulletins A300–29–097, Revision 2, dated August 27, 1991 (for Model A300 series airplanes); A310–29–2030, Revision 2, dated August 27, 1991 (for Model A310 series airplanes); or A300–29–6022, Revision 2, dated August 27, 1991 (for Model A300–600 series airplanes), as applicable.

(b) If no discrepancy is detected, thereafter at intervals not to exceed 30 months, accomplish the "Maintenance Task" specified in paragraph 2.C. of Airbus Industrie Service Bulletin A300–29–097, Revision 2, dated August 27, 1991 (for Model A300 series airplanes); A310–29–2030, Revision 2, dated August 27, 1991 (for Model A310 series airplanes); or A300–29–6022, Revision 2, dated August 27, 1991 (for Model A300–600 series airplanes); as applicable.

(c) If any discrepancy is detected (e.g., the load to move the handle during operation of the left or right control cable is higher than 5.5 daN), accomplish paragraphs (c)(1) and (c)(2) of this AD:

(1) Prior to further flight, accomplish the "Maintenance Task" specified in paragraph 2.C. of Airbus Industrie Service Bulletin A300–29–097, Revision 2, dated August 27, 1991 (for Model A300 series airplanes); A310–29–2030, Revision 2, dated August 27, 1991 (for Model A310 series airplanes); or A300–29–6022, Revision 2, dated August 27, 1991 (for Model A300–600 series airplanes), as applicable.

(2) At intervals not to exceed 30 months after the accomplishment of the Maintenance Task in accordance with paragraph (c)(1) of this AD, repeat the Maintenance Task in accordance with the applicable Airbus Industrie 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,

Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

(e) 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.

Issued in Renton, Washington, on April 3, 1992.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–9057 Filed 4–17–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 92–NM–54–AD]

Airworthiness Directives; SAAB–SCANIA Model SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the adoption of a new airworthiness directive (AD) that is applicable to certain SAAB–SCANIA Model SAAB 340B series airplanes. This proposal would require modification of the stabilizer de-icer boot system. This proposal is prompted by recent field experience, which has shown that malfunctioning of the stabilizer de-icer boot system could occur due to freezing of the control valve and the pressure switch located in the dorsal fin. The actions specified by the proposed AD are intended to prevent the accumulation of ice and subsequent reduced controllability of the airplane.

DATES: Comments must be received by June 8, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–54–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from SAAB–SCANIA AB, Product Support, S–581.88, Linköping, Sweden. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2145; fax (206) 227–1320.

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 shall identify the Rules 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 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 postcard on which the following statement is made: "Comments to Docket Number 92–NM–54–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–54–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, recently notified the FAA that an unsafe condition may exist on certain SAAB–SCANIA Model SAAB 340B series airplanes. The LFV advises that recent field experience has shown that malfunctioning of the stabilizer de-icer boot system could occur due to freezing of the control valve and the pressure switch located in the dorsal fin. This condition, if not corrected, could result in continuously inflated or deflated boots; subsequently, ice accumulation could occur, which could lead to reduced stall margins and reduced controllability of the airplane.

SAAB–SCANIA has issued Service Bulletin 340–30–039, dated December 16, 1991, which describes procedures for installation of an additional heater blanket, insulation of the tubing and valve solenoid, and relocation of the pressure switch. Installation of this modification will improve the reliability of the de-icing system. The LFV classified this service bulletin as mandatory and issued Swedish Airworthiness Directive No. 1–051 in order to assure the continued airworthiness of these airplanes in Sweden.

This airplane model is manufactured in Sweden and is type certificated for operation in the United States under the Provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LFV has kept the FAA informed of the situation described above. The FAA has examined the findings of the LFV, 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 an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require modification of the stabilizer de-icer boot system. This action would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 32 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would be supplied by the manufacturer at no cost to the operators. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $5,280.

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 proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the 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 regulatory evaluation prepared for this action is contained 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 transportatiion, 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—AIRWORTHINESS DIRECTIVES

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:

SAAB-Scania: Docket 92-NM-54-AD.

Applicability: Model SAAB 340B series airplanes; serial numbers 240 through 299, inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the accumulation of ice and subsequent reduced controllability of the airplane and stall margins, accomplish the following:

(a) Within 60 days after the effective date of this AD, modify the stabilizer de-icer boot system in accordance with SAAB-SCANIA Service Bulletin 340-30-039, dated December 16, 1991.

(b) 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, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch.

(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.

Issued in Renton, Washington, on April 6, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-9056 Filed 4-17-92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[FI-88-86]

RIN 1545-AJ35

Real Estate Mortgage Investment Conduits

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains a notice of proposed rulemaking relating to real estate mortgage investment conduits, or REMICs. This action is necessary because of changes to the applicable tax law made by the Tax Reform Act of 1986 and by the Technical and Miscellaneous Revenue Act of 1988. The proposed regulation describes the tax treatment of foreign holders of residual interests in a REMIC if the residual interest has tax avoidance potential.

DATES: Written comments, requests to appear, and outlines of oral comments to be submitted at the public hearing scheduled for June 17, 1992, must be received by May 27, 1992.

ADDRESSES: Send all correspondence concerning this notice of proposed rulemaking to: Commissioner of Internal Revenue, P.O. Box 7604, Ben Franklin Station, Attention: CC:CORP:T:R (FI-88-86), room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Carol A. Schwartz or Tom Lyden, (telephone (202) 566-3297) (not a toll-free number), of the Office of Assistant Chief Counsel, Financial Institutions and Products, 1111 Constitution Avenue, NW., Washington, DC 20224 Attention CC:FI&P (FI-88-86).

SUPPLEMENTARY INFORMATION:

Background

This document amends proposed income tax regulations (26 CFR part 1) under sections 860A and 860G of the Internal Revenue Code of 1986 (Code) that were published in the **Federal Register** on September 30, 1991 (56 FR 49526). Section 671 of the Tax Reform Act of 1986 (the 1986 Act), Pub. L. No. 99-514, 100 Stat. 2309, added to the Code new sections 860A through 860G and amended other sections of the Code to provide rules relating to real estate mortgage investment conduits, or REMICs. Section 1006(t) of the Technical and Miscellaneous Revenue Act of 1988 (TAMRA), Pub. L. No. 100-647, 102 Stat. 3419, amended section 671 of the 1986 Act. These provisions generally take effect, under section 675 (a) of the 1986 Act, as amended by section 1006 (w)(1) of TAMRA, on January 1, 1987.

Explanation of Provisions

On September 30, 1991, the Service published in the **Federal Register** (56 FR 49526) proposed regulations concerning the taxation of REMICs and REMIC interest holders. This notice of proposed rulemaking amends existing proposed § 1.860G-3(a), which provides rules concerning transfers of residual interests to foreign persons.

The rule set out in existing proposed § 1860G-3(a) is intended to discourage the transfer of residual interests to foreign persons for the purpose of avoiding the tax on excess inclusions. Generally, under sections 860C and 860E, a residual interest holder is taxed on excess inclusions as they accrue regardless of whether that residual interest holder receives any distributions from the REMIC. Certain foreign residual interest holders (those subject to tax under section 871 or 881) are, however, taxed on excess inclusions only at the time they receive distributions from the REMIC. See section 860G(b).

Proposed § 1.860G-3(a)(1) provides that the transfer of a residual interest to a foreign person is disregarded if the residual interest has tax aviodance potential. Under existing proposed § 1.860G-3(a)(2), a residual interest has tax avoidance potential unless the expected future distributions on the residual interest equal at least 30 percent of the anticipated excess inclusions attributable to that interest. Further, the transferor must reasonably expect that the distributions will occur at or after the time at which the excess inclusions accrue.

The Service is concerned that although the rules set out in existing proposed § 1.860G-3(a) generally ensure that the Service will collect the tax on excess inclusions, the existing rules permit significant deferral of that tax. This deferral is contrary to the legislative purpose of section 860E. Consequently, this notice of proposed rulemaking amends proposed § 1.860G-3(a)(2) to provide that a residual interest has tax avoidance potential unless the transferor reasonably expects that the

REMIC will distribute to the transferee residual interest holder amounts that will equal at least 30 percent of each excess inclusion, and that such amounts will be distributed at or after the time at which the excess inclusion accrues and not later than the close of the calendar year after the calendar year of accrual.

Proposed Effective Date

Generally, proposed § 1.860G–3(a)(1), (2), and (3), as amended, is proposed to be effective for transfers of residual interests that occur after April 20, 1992. However, the proposed regulation, as amended, does not apply to the transfer of a residual interest in a REMIC by the REMIC's sponsor (or by another transferor contemporaneously with the formation of the REMIC) on or before June 30, 1992 if three conditions are satisfied. First, the terms of the regular interests and the prices at which regular interests will be offered must have been fixed on or before April 20, 1992. To satisfy this condition, the REMIC sponsor need not have prepared a prospectus setting forth the terms of the regular interests and the prices at which regular interests are offered before April 20, 1992. The sponsor must, however, be able to demonstrate that the terms of the regular interests and the prices at which regular interests are offered were established before that date. Second, on or before June 30, 1992, a substantial portion of the regular interests in the REMIC must have been sold, with the terms and at the prices that were fixed on or before April 20, 1992, to investors who are unrelated to the REMIC's sponsor. Third, the residual interest must not have tax avoidance potential within the meaning of existing proposed § 1.860G–3(a)(2).

This notice of proposed rulemaking does not amend or affect proposed § 1.860G–3(a)(4), and therefore, proposed § 1.860G–3(a)(4) continues to have a proposed effective date of September 27, 1991.

Special Analysis

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553 (b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these proposed regulations, and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805 (f) of the Internal Revenue Code, these proposed regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these proposed regulations is Tom Lyden of the Office of Assistant Chief Counsel (Financial Institutions & Products). However, personnel from other offices of the IRS and Treasury Department participated in the development of the proposed regulations.

List of Subjects in 26 CFR 1.860A–0 through 1.860G–3

Income taxes, Investments, Mortgages, REMICs.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The authority citation for part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805.

* * * Section 1.860G–3 also issued under 26 U.S.C. 860G(b) and 26 U.S.C. 860G(e).* * *

Par. 2 Section 1.860A–0, as proposed on September 30, 1991 (56 FR 49534), is amended by adding paragraph headings (A) and (B) to the entry for § 1.860A–1(b)(2)(i) to read as follows:

§ 1.860A–0 Outline of REMIC provisions.

* * * * *

§ 1.860A–1 Effective dates and transition rules.

* * * * *

(b) * * *
(2) * * *
(i) * * *
(A) Transfers of certain residual interests.
(B) Transfers to foreign holders.

* * * * *

Par. 3. Section 1.860A–1, as proposed on September 30, 1991 (56 FR 49535), is amended by revising paragraph (b)(2)(i) to read as follows:

§ 1.860A–1 Effective dates and transition rules.

* * * * *

(b) * * *

(2) * * * (i) *In general*—(A) *Transfers of certain residual interests.* Section 1.860E–1(c) (concerning transfers of noneconomic residual interests) and § 1.860G–3(a)(4) (concerning transfers by a foreign holder to a United States person) are effective for transfers of residual interests on or after September 27, 1991.

(B) *Transfers to foreign holders.* Generally, § 1.860G–3(a) (1), (2), and (3) (concerning transfers of residual interests to foreign holders) is effective for transfers of residual interests after April 20, 1992. However, § 1.860G–3(a) (1), (2), and (3) does not apply to a transfer of a residual interest in a REMIC by the REMIC's sponsor (or by another transferor contemporaneously with formation of the REMIC) on or before June 30, 1992 if—

(*1*) The terms of the regular interests and the prices at which regular interests will be offered have been fixed on or before April 20, 1992;

(*2*) On or before June 30, 1992, a substantial portion of the regular interests in the REMIC have been transferred, with the terms and at the prices that were fixed on or before April 20, 1992, to investors who are unrelated to the REMIC's sponsor; and

(*3*) At the time of the transfer of the residual interest, the expected future distributions on the residual interest equal at least 30 percent of the anticipated excess inclusions (as defined in § 1.860E–2(a)(4)), and the transferor reasonably expects that the transferee will receive sufficient distributions from the REMIC at or after the time at which the excess inclusions accure.

* * * * *

Par. 4. Section 1.860G–3(a)(2), as proposed on September 30, 1991 (56 FR 49544), is revised to read as follows:

§ 1.860G–3 Treatment of foreign persons.

(a) * * *

(2) *Tax avoidance potential.* A residual interest has tax avoidance potential for purposes of this section unless, at the time of the transfer, the transferor reasonably expects that the REMIC will distribute to the transferee residual interest holder amounts that will equal at least 30 percent of each excess inclusion, and that such amounts will be distributed at or after the time at which the excess inclusion accrues and not later than the close of the calendar year following the calendar year of accrual.

* * * * *

David G. Blattner,

Chief Operations Officer, Internal Revenue Service.

[FR Doc. 92–9010 Filed 4–17–92; 8:45 am]

BILLING CODE 4836–01–M

26 CFR Part 1

[FI-88-86]

RIN 1545-AJ35

Real Estate Mortgage Investment Conduits; Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to real estate mortgage investment conduits, or REMICs.

DATE: The public hearing will be held on Wednesday, June 17, 1992, beginning at 10 a.m. Requests to speak and outlines of oral comments must be received by Wednesday, May 27, 1992.

ADDRESSES: The public hearing will be held in the Commissioner's Conference Room, room 3313, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, DC. Requests to speak and outlines of oral comments should be submitted to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R, (FI-88-86), room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Carol Savage of the Regulations Unit, Assistant Chief Counsel (Corporate), 202-377-9236 or (202) 566-3935 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 860A and 860G of the Internal Revenue Code of 1986. The proposed regulations appear elsewhere in this issue of the Federal Register.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Wednesday, May 27, 1992, an outline of the oral comment/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be permitted beyond the lobby of the Internal Revenue Service Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Cynthia E. Grigsby,

Alternate Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 92-9011 Filed 4-17-92; 8:45 am]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPPTS-42111B; FRL-4057-5]

RIN 2070-AB94

Additional Information Supporting Toxic Substances Control Act (TSCA) Test Rule on Office of Water Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Reopening of comment period; notice of availability.

SUMMARY: This notice announces the availability of additional information supporting the finding that there is or may be substantial human exposure to chloroethane (CAS No. 75-00-3), 1,1-dichloroethane (CAS No. 75-34-3), 1,1,2,2-tetrachloroethane (CAS No. 79-34-5), *n*-propylbenzene (CAS No. 103-65-1), and 1,3,5-trimethylbenzene (CAS No. 108-67-8). EPA proposed a rule requiring testing of these chemical substances (substances) under section 4 of the Toxic Substances Control Act (TSCA) on May 24, 1990 (55 FR 21393). These chemicals were referred to as the Office of Drinking Water Chemicals in the proposed rule.

DATES: Written comment on the supplemental supporting information referenced in this document, Ref. 1, must be submitted on or before May 20, 1992.

ADDRESSES: Three copies of comments identified with the document control number (OPPTS-42111B) must be submitted to: TSCA Public Docket Office (TS-793), Office of Pollution Prevention and Toxics, Rm. NE-G004, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. A public record has been established and is available in the TSCA Public Docket Office at the above address from 8 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Rm. E-543B, 401 M St., SW., Washington, DC 20460, (202) 260-3949.

SUPPLEMENTARY INFORMATION: On May 24, 1990 (55 FR 21393), EPA proposed oral subacute and subchronic health effects testing of the five substances listed in the above summary under section 4 of TSCA. EPA supplemented that notice with a second notice on July 15, 1991 (56 FR 32294). The purpose of this testing is to assist the Safe Drinking Water Program develop Health Advisories for drinking water contaminants that are monitored under section 1445 of the Safe Drinking Water Act (SDWA). Monitoring data collected under the SDWA for these substances were recently made available for nine states (AL, FL, IN, MA, MI, NE, PA, RI and WV). These data showed that chloroethane was present in drinking water in four of the nine states; 1,1-dichloroethane in six of the nine states; 1,1,2,2-tetrachloroethane in five of the nine states; *n*-propylbenzene in two of the nine states; and 1,3,5-trimethylbenzene in three of the nine states. These data have been added to the public docket for this rulemaking as Reference 1. EPA intends to use this information to support a finding that there is or may be substantial human exposure to these chemicals. The Reference Document 1 containing the information about the presence of these substances in the drinking water of various states may be obtained from EPA at the TSCA Public Docket Office at the address and time listed above under ADDRESSES.

Dated: April 7, 1992.

Charles M. Auer,

Director, Existing Chemical Assessment Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-9090 Filed 4-17-92; 8:45 am]

BILLING CODE 6560-50-F

DEPARTMENT OF THE INTERIOR

Fish and Wildlife

50 CFR Part 17

Petitions To Change Status of Grizzly Bear Population in Selkirk Ecosystem of Idaho and Washington et al.

In the matter of Endangered and Threatened Wildlife and Plants: Notice of Receipt of Petitions to Change the Status of Grizzly Bear Populations in the Selkirk Ecosystem of Idaho and Washington; the Cabinet-Yaak Ecosystem of Montana; the Yellowstone Ecosystem of Montana, Wyoming, and Idaho; and the Northern Continental Divide Ecosystem of Montana from Threatened to Endangered.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition findings and initiation of status review.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a 90-day petition finding for two petitions to amend the List of Threatened and Endangered Wildlife. The petitioners submitted substantial information indicating that the reclassification from threatened to endangered status may be warranted for the grizzly bear (*Ursus arctos horribilis*) populations in the Cabinet-Yaak Ecosystem and in the Selkirk Ecosystem. Through the issuance of this notice, the Service is commencing a formal review of the species in these two areas. The petitioners did not present substantial information that changing the status of the grizzly bear from threatened to endangered may be warranted for the Yellowstone Ecosystem and the Northern Continental Divide Ecosystem. The petitioners also requested a change from threatened to endangered status for the grizzly bear population in the North Cascades area. This request was previously addressed and the finding was published in the **Federal Register** dated July 24, 1991 (56 FR 33892–33894).

DATES: The finding announced in this notice was approved in February 1992.

ADDRESSES: Questions or comments concerning this finding should be sent to Dr. Christopher Servheen, Grizzly Bear Recovery Coordinator, U.S. Fish and Wildlife Service, NS 312, University of Montana, Missoula, Montana 59812, telephone (406) 329–3223. The petition, finding, and supporting data are available for public inspection by appointment during normal business hours.

FOR FURTHER INFORMATION CONTACT: Dr. Christopher Servheen (see **ADDRESSES** above).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 15331 et seq.), requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition and the finding is to be published promptly in the **Federal Register**. If the finding is positive, the Service also is required to promptly commence a review of the status of the involved species. The Service announces a 90-day finding on two petitions requesting the reclassification of grizzly bears from threatened to endangered status, and initiates a status review.

A petition dated February 4, 1991, was received by the Service from The Fund for Animals, Inc., on February 7, 1991. The petition requested the Service to reclassify grizzly bear (*Ursus arctos horribilis*) populations in the Selkirk Ecosystem of Idaho and Washington; the Cabinet-Yaak Ecosystem of Montana; the Yellowstone Ecosystem of Montana, and Idaho; and the Northern Continental Divide Ecosystem of Montana, from threatened to endangered. A petition dated January 16, 1991, was received by the Service from Mr. D.C. "Jasper" Carlton on January 28, 1991. The petition requested that the Service reclassify the grizzly bear populations in the Cabinet-Yaak Ecosystem of Montana and the Selkirk Ecosystem of Idaho and Washington, from threatened to endangered. The petition furthermore requested that the grizzly bear population in the North Cascades of Washington be reclassified from threatened to endangered. In addition, the petitioner requested designation of critical habitat for the Northern Continental Divide, Yellowstone, Selkirk, and Cabinet-Yaak Ecosystems.

The Funds for Animals, Inc., and Mr. D.C. "Jasper" Carlton submitted information that grizzly bears in the Cabinet-Yaak region and Selkirk Mountains are imperilled because current populations there are small. The petitioners also indicated that a range of threats exist to the survival of the remaining populations of grizzly bears in these areas and in the Yellowstone Ecosystem and the Northern Continental Divide Ecosystem, including road construction, land management activities, livestock grazing, land development, and inadequate support from management agencies.

Grizzly bears have been eliminated from most of their endemic range in the lower 48 States, and presently occupy approximately 2 percent of their historic range (U.S. Fish and Wildlife Service 1990). In 1975, grizzly bears in the lower 48 States were listed as "threatened" under the Act of 1973. As such, grizzly bear populations receive the protection afforded a species listed as threatened under the Act; section 7 (Consultation) and section 9 (Prohibited Acts) apply. However, species listed as endangered have more protection under section 9 than species listed as threatened, and special rules cannot be established for endangered species. The Grizzly Bear Recovery Plan (U.S. Fish and Wildlife Service 1982) provides guidelines for recovery of the species.

The draft revised Grizzly Bear Recovery Plan identifies seven ecosystems that may play a role in recovery: Yellowstone, Northern Continental Divide, Cabinet-Yaak, Selkirk, North Cascades, Bitterroot Ecosystems in Montana, Wyoming, Idaho, and Washington, and the San Juan Mountains in Colorado. Four of these areas (Yellowstone, Northern Continental Divide, Cabinet-Yaak, and Selkirk Ecosystems) are known to contain grizzly bears and provide adequate space and habitat to maintain a population of grizzly bears, and as such are designated as grizzly bear recovery zones in the draft revised Grizzly Bear Recovery Plan (U.S. Fish and Wildlife Service 1990). Additionally, evaluation of the North Cascades Ecosystem as to its potential to support a grizzly population is ongoing.

The petitions addressed here involve five areas, four of which are designated recovery zones. Grizzly bear populations within the various ecosystems are relatively isolated from each other and are considered individually for status review.

The Yellowstone Grizzly Bear Ecosystem encompasses over 23,300 km^2 (14,447 mi^2), and includes Yellowstone National Park, Grand Teton National Park, John D. Rockefeller Memorial Parkway, and significant contiguous portions of six national forests, Bureau of Land Management lands, and State and private lands.

The Northern Continental Divide Ecosystem encompasses 24,800 km^2 (14,900 mi^2) and contains Glacier National Park, parts of five national forests including the Bob Marshall, Great Bear, Mission Mountains, and Scapegoat Wilderness Areas, portions of the Blackfeet Indian and the Flathead

Indian Reservations, Bureau of Land Management lands, and significant amounts of private and State lands.

The Cabinet-Yaak Ecosystem encompasses 6,800 Km^2 (4200 mi^2) and includes the Cabinet Mountains and Yaak River region of northwestern Montana and northeastern Idaho. The Selkirk Exosystem encompasses 2,800 km^2 (1736 mi^2) in the United States portion and 2,270 km^2 (1400 mi^2) in Canada, including the Selkirk Mountains of northwestern Idaho and northeastern Washington and extends northward into British Columbia to the Kootenay Lake area.

The North Cascades Ecosystem is not as yet designated as a grizzly bear recovery zone in the draft revised Grizzly Bear Recovery Plan. A habitat evaluation, completed in 1991, indicated that the ecosystem is capable of supporting a viable grizzly bear population. The Interagency Grizzly Bear Committee supports the Service's recommendation to designate this area as a grizzly bear recovery area. The North Cascades Ecosystem includes the North Cascades Mountains of north-central Washington and encompasses North Cascades National Park, portions of one national forest including the Paysayten, Glacier Peak, and Alpine Lakes Wilderness areas.

Grizzly bear populations in the Yellowstone Ecosystem and Northern Continental Divide Ecosystem have been studied and monitored since 1975. Presently, no reliable methods exist for determining absolute numbers of grizzly bears in any area. The Service relies instead on indicators that can be monitored to give an accurate representation of population status. These indicators are outlined in the draft revised Grizzly Bear Recovery Plan (U.S. Fish and Wildlife Service 1990) and include three parameters: (1) The number of female bears with cubs of the year monitored over a 3-or 6-year running average, (2) the distribution of females with young, based on all verified sightings within Bear Management Units throughout each particular recovery zone over a 3-year running average, and (3) known human-induced mortality within each ecosystem. Monitoring efforts are ongoing in both the Yellowstone Ecosystem and Northern Continental Divide Ecosystem.

The draft revised Grizzly Bear Recovery Plan (U.S. Fish and Wildlife Service 1990) subgoals for the Yellowstone Ecosystem are 15 females with cubs over a running 6-year average, and known human-induced mortality not to exceed a total of 7 grizzly bears or 2 adult females on a running 6-year average. From 1980 to 1990, the unduplicated females with cubs in this area averaged 16 per year, and female mortality averaged 2.4 per year (Knight et al. 1991). The numbers of females with cubs reported remained fairly stable or increased over the years, and female mortality remained stable. There are more than 200 grizzly bears in the Yellowstone Ecosystem. These data indicate that the grizzly bear in the Yellowstone Ecosystem is unlikely to go extinct in the near future. Beacuse the definition of an endangered species is a species that is in danger of extinction, the grizzly bear population in the Yellowstone Ecosystem does not fit the definition of an endangered species. Therefore, the Service chooses not to reclassify the grizzly bear from threatened to endangered in the Yellowstone Ecosystem.

The draft revised Grizzly Bear Recovery Plan (U.S. Fish and Wildlife Service 1990) subgoals for the Northern Continental Divide Ecosystem are 10 females with cubs within Glacier National Park, and 12 females with cubs outside the Park over a 3-year running average, and known mortality not to exceed 14 total bears or 6 females annually over a running 6-year average. In the Northern Continental Divide Ecosystem, the average number of unduplicated females with cubs since 1987 was 24 per year, and annual female mortality averaged 5.4 per year. The numbers of females with cubs remained fairly stable or increased, and female mortality remained stable or decreased. The Grizzly Bear Recovery Plan (U.S. Fish and Wildlife Service 1982) included a grizzly bear population estimate for the Northern Continental Divide Ecosystem of 440 to 680 bears. Additionally, the bear population of the Northern Continental Divide Ecosystem is contiguous with the larger population of grizzly bears in southeastern British Columbia. Research indicates that there is substantial movement of bears back and forth across the Montana-British Columbia border. These data indicate that the grizzly bear in the Northern Continental Divide Ecosystem is unlikely to go extinct in the near future. Because the definition of an endangered species is one that is in danger of extinction, the grizzly bear population in the Northern Continental Divide does not meet the definition of an endangered species. Therefore, the Service chooses not to reclassify the grizzly bear from threatened to endangered in the Northern Continental Divide Ecosystem.

The Interagency Grizzly Bear Committee approved the Interagency Grizzly Bear Guidelines (Interagency Grizzly Bear Committee 1986) which provide land management recommendations that include special grizzly habitat management areas within the recovery zones. These guidelines have been adopted by various land management agencies in their NEPA planning documents.

Management within the grizzly bear recovery zones includes three Management Situations. Management Situation 1 is warranted in areas containing grizzly bear population centers and habitat components needed for the survival of the species or a segment of its population. Management will favor the needs of the grizzly bear when grizzly habitat and other land use values compete. Management Situation 2 occurs where the area lacks distinct population centers and highly suitable habitat does not generally occur. Management direction in Situation 2 accommodates demonstrated grizzly bear populations and/or grizzly bear habitat use in land use actions if feasible, but not to the extent of exclusion of other uses. In Management Situation 3, grizzly bear presence is possible but infrequent and habitat is unsuitable for grizzly bears because of existing developments. Grizzly bear habitat maintenance and improvement are not management considerations and grizzly bear use of the area is discouraged.

Grizzly bear habitat of Federal lands is currently managed according to the Interagency Grizzly Bear Guidelines. Large portions of grizzly bear habitat in both the Yellowstone Ecosystem and Northern Continental Divide Ecosystem recovery zones are contained in National Park Service, Bureau of Land Management, or National Forest lands including designated wilderness areas.

The Service has reviewed the best scientific and commercial information available for the grizzly bears in the Yellowstone Ecosystem and Northern Continental Divide Ecosystem, and has determined that the petition did not present substantial information indicating that reclassifying these populations may be warranted.

Research on the status of grizzly bears in the Cabinet-Yaak Ecosystem began in 1978 in the Cabinet portion, and in 1988 in the Yaak portion (Kasworm and Thier 1991). No population estimate is known for the Yaak portion of the area. Low densities of grizzly bears are found in the Yaak and contiguous areas in Canada, and interchanges of bears have been documented across the border. Movement between the Cabinet Mountains and the Yaak area has not been documented, although at the existing low densities, such movement

would be difficult to detect. Habitat and population data are being collected in the Yaak portion of the ecosystem as part of a 5-year study in this area. To date, eight grizzly bears have been trapped and radio-collared. Three individual grizzly bear have been trapped in the Cabinet portion. Based on this research, the grizzly bear population in the Cabinet Mountains portion of this area is thought to be less than 15 hours. Efforts are presently underway to augment the Cabinet area grizzly population. In 1990, a 4-year-old female grizzly bear was successfully translocated from southeastern British Columbia to the Cabinet Mountains. The movements of this bear are being closely monitored. Efforts to trap and relocate three more females into the Cabinet Mountains are ongoing. Up to four more relocations are planned during the present phase of work.

The Selkirk Ecosystem encompasses part of Canada and grizzly bear habitat is contiguous across the border. Research in the Selkirk Ecosystem has been ongoing since 1985 (Wakkinen et al. 1990). At least 23 grizzly bears have been radio-collared, however, no reliable population or density estimates exist for this region. Human-caused grizzly bear mortality is a problem in the Selkirk Ecosystem (Wakkinen et al. 1990). Six of eight known grizzly bear mortalities occurring during 1983 to 1990 were human induced.

The Service agrees that grizzly bear populations in both the Cabinet-Yaak area and the Selkirk Mountains are small and that increasing human demands exist in the areas, including logging, recreation, and livestock grazing. After a review of the petition, accompanying documentation, and references cited therein, the Service found the petitioners presented substantial information that the requested action for the Cabinet-Yaak Ecosystem and the Selkirk Ecosystem may be warranted. Within 1 year from the date the petitions were received, a finding as to whether the petitioned actions are warranted is required by section 4(b)(3)(B) of the Act.

With the publication of these findings, the Service initiates a status review of grizzly bear populations in the Cabinet-Yaak Ecosystem and the Selkirk Ecosystem. The Service solicits any additional data, comments, and suggestions from the public, other concerned Government Agencies, the scientific community, industry, or any other interested party concerning the status of this species.

The reclassification of the grizzly bear in the North Cascades Ecosystem has been previously addressed by the Service in a **Federal Register** Notice, dated July 24, 1991, (56 FR 33892–33894), in response to a petition submitted by the Humane Society of the United States, Greater Ecosystem Alliance, North Cascades Audubon Society, Skagit Alpine Club, North Cascades Conservation Council, and Carol Rae Smith. The finding of the Service in response to the petition to change the status of grizzly bears in the North Cascades from threatened to endangered was warranted but precluded at this time.

In regard to the petitioner's request that critical habitat be designated for the Northern Continental Divide, Yellowstone, Selkirk, and Cabinet-Yaak Ecosystems, the designation of critical habitat is not a petitionable action under the Act. The Service will consider the request under the Administrative Procedures Act (5 U.S.C. 553). If it is determined that the petitioned action to change the status of the grizzly bear in the Cabinet-Yaak and Selkirk Ecosystems is warranted, then the designation of critical habitat would have to be addressed in the subsequent proposed rule.

References Cited

Interagency Grizzly Bear Committee. 1986. Interagency grizzly bear guidelines. U.S. Dept. of Agriculture, Washington, D.C. 99pp.

Kasworm, W. and T. Thier. 1991. Cabinet-Yaak Ecosystem grizzly bear and black bear research 1990 progress report. U.S. Fish and Wildlife Service, Missoula, Montana. 35 pp.

Knight, R., B. Blanchard, and D. Mattson. 1991. Yellowstone grizzly bear investigations, report of the Interagency Study Team, 1990. National Park Service, Yellowstone National Park. 11 pp.

U.S. Fish and Wildlife Service. 1982. Grizzly bear recovery plan. U.S. Fish and Wildlife Service, Denver, Colorado. 109 pp.

U.S. Fish and Wildlife Service. 1990. Grizzly bear recovery plan, draft revision. U.S. Fish and Wildlife Service, Denver, Colorado. 117 pp.

Wakkinen, W.L., P. Zager, and R. Wielgus. 1990. Selkirk Mountains grizzly bear ecology project, April 1990–October 1990. Idaho Dept. of Fish and Game, Boise, Idaho. 14 pp.

Author

This notice was prepared by Dr. Christopher Servheen (see **ADDRESSES** above).

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1544).

List of Subjects in 50 CFR Part 17

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

Dated: March 23, 1992.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 92–9108 Filed 4–17–92; 8:45 am]

BILLING CODE 4310–55–M

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB75

Endangered and Threatened Wildlife and Plants; Proposal To List the Plant Coryphantha Scheeri var. Robustispina (Pima Pineapple Cactus) as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service proposes to list the plant *Coryphantha scheeri* var. *robustispina* (Pima pineapple cactus), as an endangered species under the authority of the Endangered Species Act of 1973, as amended (Act). This species is known from Pima and Santa Cruz counties, southern Arizona, and northern Sonora, Mexico. Threats to the species include illegal collection, habitat degradation due to recreation, historical and present overuse of the habitat by livestock, and habitat loss due to mining, agriculture, road construction, urbanization, and range management practices to increase livestock forage. This proposal, if made final, would implement Federal protection provided by the Act for Pima pineapple cactus. Critical habitat is not being proposed. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by June 19, 1992. Public hearing requests must be received by June 4, 1992.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Ecological Services Field Office, U.S. Fish and Wildlife Service, 3616 West Thomas Road, suite 6, Phoenix, Arizona 85019. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Sue Rutman, at the above address (Telephone 602/379–4720 or FTS 261–4720).

SUPPLEMENTARY INFORMATION:

Background

The Pima pineapple cactus is an attractive hemispherical plant, the adults measuring 10–17.5 cm (4–7 inches) tall and 7.5–10 cm (3–4 inches) in diameter. Each spine cluster has one strong, straw-colored, hooked central spine and six radial spines (Benson 1982). Plants can be single-stemmed, multi-headed, or can appear in clusters formed when seeds germinate at the base of a mother plant or when a tubercle of the mother plant roots. The silky yellow flowers appear in mid-July with the onset of summer rains. The fruits are green, succulent, sweet and disappear rapidly from the plant (Mills 1991). Mills (1991) believes the plants have short life spans, and that pollination, fruit set, and seed set do not appear to be a problem.

Coryphantha scheeri var. *robustispina* was first collected in 1856 by Mr. A. Schott, who found the plants growing in a grassland on the south side of the Baboquivari Mountains, Sonora, Mexico. These plants were originally named *Mammillaria robustispina* (Engelmann 1856), and subsequently underwent several name changes (Kuntze 1891, Britton and Rose 1963, Marshall 1953). Lyman Benson (1969) published the most recent revision, which split *Coryphantha scheeri* into three varieties, including variety *robustispina*.

The Pima pineapple cactus grows in alluvial basins or on hillsides in rocky to sandy or silty soils in semidesert grassland and Sonoran desertscrub in southern Arizona. The species occurs most commonly in open areas on flat ridgetops or areas with less than 15% slope. Dominant plant species in these sparsely vegetated areas vary but include *Acacia constricta* (white-thorn acacia), *Celtis pallida* (desert hackberry), *Prosopis velutina* (mesquite), *Ambrosia deltoidea* (burrobush), *Gutierrezia sarothrae* (snakeweed), *Isocoma tenuisecta*, *Eragrostis lehmanii* (Lehman's lovegrass), and various cacti (Mills 1991).

The Pima pineapple cactus is found between 690-1,500 meters (2,300–5,000 feet) elevation in Pima and Santa Cruz counties, southern Arizona, and northern Sonora, Mexico (Phillips 1981). The range extends east from the Baboquivari Mountains to the Santa Rita Mountains. The northernmost boundary is near Tucson. The southern boundary of the range is less well understood but is believed to extend south a relatively short distance into Sonora, Mexico. Accurate population density estimates are very difficult to make because the Pima pineapple cactus is difficult to find in the field (Mills 1991). Minimum density estimates for areas near the Sierrita Mountains of Arizona range from a low of one plant per 21 acres to a high of one plant per 4.6 acres (Mills 1991). The amount of habitat loss that has already occurred and will likely continue to occur throughout the range of this species, the amount of habitat modification, the sparsity of plants, and the difficulty in protecting an area large enough to maintain a viable population contribute to the need to propose this species as endangered.

Federal government actions on this species began with Section 12 of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice (40 FR 27823) that formally accepted the Smithsonian report as a petition within the context of section 4(c)(2), now section 4(b)(3)(A), of the Act and of its intention thereby to review the status of those plants. *Coryphantha scheeri* var. *robustispina* was included as "threatened" in the July 1, 1975, petition.

On December 15, 1980, the Service published a revised notice of Review for Native Plants in the **Federal Register** (45 FR 82480); *Coryphantha scheeri* var. *robustispina* was included in that notice as a category 1 species. Category 1 species are those for which the Service presently has sufficient information to support the determination that listing the species as threatened or endangered is biologically appropriate. The 1985 revision (50 FR 39526) of the 1980 notice and the 1990 notice (55 FR 6184) included *Coryphantha scheeri* var. *robustispina* in category 1.

Section 4(b)(3)(B) of the Act, as amended in 1982, requires the Secretary to make certain findings on pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. Because the 1975 Smithsonian report was accepted as a petition, all the taxa contained in the notice, including *Coryphantha scheeri* var. *robustispina*, were treated as being newly petitioned on October 13, 1982. In 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, and 1991, the Service found that the petitioned listing of *Coryphantha scheeri* var. *robustispina* was warranted but precluded by other listing actions of a higher priority and that additional data on vulnerability and threats were still being gathered. This proposal constitutes the final finding for the petitioned action.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Coryphantha scheeri* (Kuntze) L. Benson var. *robustispina* (Schott) L. Benson (Pima pineapple cactus) are as follows:

A. *The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range*

Construction associated with a rapidly growing human population is the most significant cause of habitat loss. Tucson is a major city at the north boundary of the species' range, Green Valley is a large community in the center of the range, and Nogales, Arizona, occurs near the southern part of its range. Additional development within and between the densely populated areas is occurring every year. Habitat loss for the Pima pineapple cactus accompanies this development. Home building, commercial development, road construction and maintenance, and utility corridor construction are some of the important activities that have caused and continue to cause habitat loss.

Mining has also resulted in the loss of hundreds of acres of potential habitat throughout the range of this species. When one copper mine near Green Valley was expanded in the early 1980's, botanists familiar with this species noted that many plants were lost because they were not salvaged or salvaged but not used for conservation purposes. Although the mine near Green Valley is by far the largest mine, many other small mines occur throughout the range of this species. Actions associated with mineral extraction, such as constructing road access, tailings piles, and settling or leaching ponds, can also contribute to habitat loss. In the future, habitat loss due to mining and associated activities is expected to continue or increase throughout the range of this species.

Currently, the undeveloped part of the range of this species is mostly used for livestock grazing, as it has been for over one century. Severe overgrazing at the turn of the century and some continuing livestock grazing practices may have altered the ecosystem. Some effects of overgrazing include erosion, changes in hydrology and microclimate, invasion of weedy exotic plants, shifts in density, relative abundance, and vigor of native species, and increases in woody perennials. Overgrazing in some ares continues today. Some modern range management practices, such as imprinting, chaining, ripping, and seeding of exotic grasses, have contributed to the modification or loss of habitat and/or loss of plants. Mills (pers. com. 1991, Tucson, Arizona) has seen damage to Pima pineapple cacti that may have been caused by livestock.

Habitat for the Pima pineapple cactus may have occurred in several areas along the Santa Cruz River south of Tucson that are now under cultivation. Habitat for the Pima pineapple cactus is found in the vicinity of these orchards and fields.

The introduction of non-native species has modified many southern Arizona ecosystems. Much Pima pineapple cactus habitat was altered by the introduction of Lehman's lovegrass, an aggressive exotic introduced to provide cattle forage and control erosion. Lehman's lovegrass outcompetes native grasses and monotypic stands of it cover large areas of middle-elevation southern Arizona. The lack of structural and native species diversity and competition for light and nutrients in the grassland habitats may have adversely affected the Pima pineapple cactus. Another successful exotic grass is Mediterranean grass (*Schismus barbatus*), which is common in Sonoran desertscrub/grassland transition habitats. Dense stands of Mediterranean grass in desertscrub habitats contribute fine fuels that are readily flammable and carry fires in fire-intolerant habitat. Lehman's lovegrass and Mediterranean grass are two of many non-native species that may have had negative effects to the natural ecosystem. The introduction of other new non-native plant species to the southwestern United States is continuing. These introductions carry with them the potential for additional negative impacts.

Off-road vehicle use is not currently considered a serious problem, but habitat loss and degradation is occurring in parts of Pima pineapple cactus habitat due to this activity.

B. *Overutilization for Commercial, Recreational, Scientific, or Educational Purposes*

Illegal collection of this species has been documented on numerous occasions. On one occasion, surveys for the Pima pineapple cactus had been conducted and plants had been mapped. On a subsequent visit, botanists discovered that mapped plants were missing and only holes in the ground remained. In another incident, surveys for the species had been conducted for a road project near Tucson. Several plants were taken after surveyors left the site. Again, empty holes indicated they had been taken. The Service has received other reports of take that are less verifiable than the two incidents reported above. Some of these incidents indicate that collectors are specifically interested in taking *Coryphantha scheeri* var. *robustispina* and at other times it appears that the collectors have no knowledge as to the identity of the cacti but are taking all cacti in a general area. Hobbyists and commercial collectors are probably the two groups most likely to take this species.

C. *Disease or Predation*

Some plants appeared to be damaged by the larval stage of *Phycitidae* sp., a lepidopteran (Phillips 1981). The effects of this damage on population stability are unknown.

D. *The Inadequacy of Existing Regulatory Mechanisms*

The Arizona Native Plant Law protects *Coryphantha scheeri* var. *robustispina* as a highly safeguarded species. To legally collect this cactus on public or private lands in Arizona, a collector must obtain a permit from the Arizona Department of Agriculture. Permits may be issued for scientific and education purposes only. However, illegal collecting continues to occur. Due to the relatively large range of this species, the remote nature of some of its habitat, and the relatively few law enforcement agents available to cover this area, enforcement is difficult. Endangered Species Act protection may present a deterrent to illegal collectors and would increase the number of agents having enforcement authority.

E. *Other Natural or Manmade Factors Affecting its Continued Existence*

None known.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Coryphantha scheeri* var. *robustispina* as endangered. With habitat loss and degradation continuing, the species warrants protection under the Act. Endangered status seems appropriate because of the amount of habitat already lost, the accelerating habitat loss and degradation due to the rapidly growing human population within the range of this plant, and the current inadequacy of legal protection afforded to the species. Critical habitat is not being proposed for the reasons discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time the species is proposed to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for this species. As discussed under Factor B in the Summary of Factors Affecting the Species, *Coryphantha scheeri* var. *robustispina* is threatened by taking, an activity difficult to enforce against and only regulated by the Act with respect to plants in cases of (1) removal and reduction to possession of listed plants from lands under Federal jurisdiction, or their malicious damage or destruction on such lands; and (2) removal, cutting, digging up, or damaging or destroying in knowing violation of any State law or regulation, including State criminal trespass law. Such provisions are difficult to enforce, and publication of critical habitat descriptions and maps would make *Coryphantha scheeri* var. *robustispina* more vulnerable and increase enforcement problems. Therefore, it would not now be prudent to determine critical habitat for *Coryphantha scheeri* var. *robustispina*.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery action, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and authorizes recovery plans for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing

this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

This species occurs on federally owned lands managed by the Bureau of Land Management (BLM)—Phoenix District, U.S. Forest Service Coronado National Forest, and the Fish and Wildlife Service Buenos Aires National Wildlife Refuge. Federal activities on these lands that could impact *Coryphantha scheeri* var. *robustispina* include, but are not limited to, livestock grazing and range management practices, road and utility corridor construction, mining permits and mitigation, controlled burns, and recreation planning.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general prohibitions and exceptions that apply to all endangered plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61 apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale this species in interstate or foreign commerce, or to remove and reduce to possession the species from areas under Federal jurisdiction. In addition, for listed plants, the 1988 amendments (Pub. L. 100–478) to the Act prohibit the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying of listed plants in knowing violation of any State law or regulation, including State criminal trespass law. Certain exceptions apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances.

It is anticipated that few trade permits would ever be sought or issued because the species is not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, P.O. Box 3507, Arlington, Virginia 22201 (703/358–2104).

On July 1, 1975, *Coryphantha scheeri* var. *robustispina* was listed on appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The effect of this listing is that a permit for export is required from the country of origin. Commercial trade is allowed but only after the country of export has determined that it will not harm the wild populations. International movement of this species is minimal. If the species is listed under the Act, the Service will review it to determine whether it should be considered for transfer to appendix I of CITES.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to the Field Supervisor (See **ADDRESSES**).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

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Author

The primary author of this proposed rule is Susan Rutman (See **ADDRESSES**).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

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

Authority 16 U.S.C. 1361–1407; 16d U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under Cactaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

(h) * * *

* * * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific Name	Common Name					
* * * * *						
Cactaceae—Cactus family:						
* * * * *						
Coryphantha scheeri var. *robustispina*.	Pima pineapple cactus	U.S.A. (AZ); Mexico (Sonora)	E		NA	NA

Dated: April 7, 1992.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 92-9110 Filed 4-17-92; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

RIN 1018-AB

Endangered and Threatened Wildlife and Plants; Grizzly Bear; Proposed Rule to Remove Special Rule Allowing a Limited Special Hunt and Notice of Intent to Revise Special Rule Regulating Taking

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; removal and notice of proposed rulemaking.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to remove the special rule that allows taking of grizzly bears through a special hunt in northwestern Montana. The Services seeks data and comments on this proposed rule. The Service further announces its intention to revise the Grizzly Bear Special Rule to address actions needed due to population pressure within a grizzly bear population.

DATES: Comments on the proposed removal of 50 CFR 17.40(b)(1)(i)(E) must be received on or before May 20, 1992 to receive consideration by the Service. After this 30-day comment period, the Service intends to issue a final rule. Because the Service wishes to finalize this action before any spring hunt in Montana could occur in 1992, the final rule will be effective on the date of its publication in the **Federal Register**. The Service anticipates that a new revised special rule will be proposed and published in the **Federal Register** within 1 years of this notice.

ADDRESSES: Comments and materials concerning this proposal should be sent to: Dr. Christopher Servheen, Grizzly Bear Recovery Coordinator, Fish and Wildlife Enhancement, NS 312, University of Montana, Missoula, Montana 59812, telephone (406) 329-3223 or FTS 585-3223. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Dr. Christopher Servheen (see **ADDRESSES** above).

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-substaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's (Service) Endangered Species Program. The Service may propose special rules providing for the conservation of threatened species including taking prohibitions. The Service published a Grizzly Bear Special Rule (50 CFR 17.40) in 1975 dealing with limiting the number of grizzly bears killed from all human-related causes. This special rule included authorization of a limited special hunt of grizzly bears in northwestern Montana. A revision of this special rule was published in the **Federal Register** (51 FR 33753) in 1986.

The Service hereby proposes to remove 50 CFR 17.40(b)(1)(E) that allows a special hunt of grizzly bears in northwestern Montana. The proposed removal of the authorization for the special hunt in Montana is to allow time to revise the existing special rule based on current biological information, so that the special rule would be consistent with the Memorandum Opinion of the U.S. District Court, District of Columbia, in *The Fund for Animals, Inc.* v. *Turner*, Civil No. 91-2201(MB) dated September 27, 1991. This opinion declared 50 CFR 17.40(b)(1)(i)(E) to be invalid and enjoined the Service from authorizing the grizzly bear hunt. In response to the court's rulings, the Service needs to withdraw 50 CFR 17.40(b)(1)(i)(E). The proposed removal of the authorization of the special hunt in Montana will, in no way, change the remainder of the Grizzly Bear Special Rule in 50 CFR 17.40(b).

The Service also announces its intention to revise the Grizzly Bear Special Rule (50 CFR 17.40(b)) to address alternate methods of dealing with nuisance bears and human-grizzly bear conflicts, and of managing documented excessive population pressures of grizzly bears. In revising the special rule, the Service will consider the most appropriate methods for reducing human-grizzly bear conflicts, in order to ensure maintenance of sufficient grizzly bear population numbers and distribution to further the recovery of the grizzly bear.

The Service also will propose to clarify applicability of prohibitions and exceptions and to revise reporting requirements for taking of grizzly bears in self-defense, or defense of others, to expedite and promote law enforcement investigations of such takings. Reporting requirements will be revised to allow more complete law enforcement investigation of such takings.

Public Comments Solicited

The Service solicits written comments on the proposed removal of 50 CFR 17.40(b)(1)(i)(E). All comments received by the date specified above will be considered prior to the final determination. The Service will seek comments and data from the public when it proposes the revised Grizzly Bear Special Rule.

National Environmental Policy Act

An environmental assessment, as defined under the authority of the National Environmental Policy Act of 1969, was prepared for the 1986 revision (51 FR 33753) of the Grizzly Bear Special Rule. The elimination of the sport hunt of grizzly bears, which is the result of the removal of 50 CFR 17.40(b)(1)(i)(E), was covered under Alternative D of this environmental assessment.

This environmental assessment is available to the public from Dr. Chris Servheen (see **ADDRESSES** above).

Author

The primary author of this notice is Patricia Worthing, Region 6 Recovery Coordinator, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225, telephone (303) 236–7398 or FTS 776–7398.

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Removal

Accordingly, it is hereby proposed to remove and reserve § 17.40(b)(1)(i)(E), subchapter B of chapter I, title 50 of the Code of Federal Regulations.

PART 17—[AMENDED]

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

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

§ 17.40 [Amended]

2. It is proposed to remove and reserve § 17.40(b)(1)(i)(E).

Dated: April 7, 1992.

Richard N. Smith,

Acting Director.

[FR Doc. 92–9109 Filed 4–17–92; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 57, No. 76
Monday, April 20, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Drug Alliance; Availability of Funds

April 20, 1992.

ACTION: Notice of availability of funds.

ACTION, the federal domestic volunteer agency, announces the availability of funds during fiscal year 1992 for Drug Alliance grants under the Special Volunteer Programs authorized by the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93–113, title I, part C). These grants are to address the particular need for illicit drug prevention programs that focus on at-risk youth in public housing neighborhoods.

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

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

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

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

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

A. Eligible Strategy

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

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

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

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

B. Eligible Applicants

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

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

C. Available Funds and Scope of Grant

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

All grants awarded under this announcement require a match of at

least 10% (cash or in-kind) of the federal share. Additional non-federal match is strongly encouraged, and will be considered in the decision-making process.

Publication of this announcement does not obligate ACTION to award any specific number of grants, or to obligate the entire amount of funds available, or any part thereof.

D. General Criteria for Grant Review and Selection

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

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

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

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

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

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

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

7. Evidence of local community support for this project, including three letters form agencies or organizations which have first-hand knowledge of the applicant and make a commitment to participate in the project.

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

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

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

E. Application Review Process

Applications submitted under this announcement will be reviewed and evaluated by the respective ACTION State and Regional Offices and ACTION's Program Demonstration and Development Division. ACTION's Associate Director for Domestic and Anti-Poverty Operations will make the final selection. ACTION reserves the right to ask for evidence of any claims of past performance or future capability. The Associate Director for Domestic and Anti-Poverty Operations may use additional factors in choosing among applicants which meet the minimum criteria specified above, such as:

1. Geographic distribution;
2. Applicant's access to alternate resources; and
3. Allocation of Drug Alliance resources in relation to other ACTION funds.

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

F. Application Submission and Deadline

One signed original and two copies of all completed applications must be submitted to the appropriate ACTION State Office no later than 5 p.m. local standard time on Monday, June 15, 1992. Only those applications that are received at the appropriate ACTION State Office by 5 p.m. local standard time on this date will be eligible.

All grant applications must consist of:

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

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

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

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

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

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

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

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

i. CPA certification of accounting capability.

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

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

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

Region I

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

ACTION State Program Director, (New Hampshire & Vermont), The Whitebridge, 91–93 North State St., Room 223, Concord, NH 03301–3939, 603/225–1450

ACTION State Program Director, John O. Pastore Federal Bldg., Two Exchange Terr., Room 232, Providence, RI, 02903–1758, 401/528–5424

ACTION State Program Director, 1 Commercial Plaza, 21st Floor, Hartford, CT 06103–3510, 203/240–3237

ACTION State Program Director, U.S. Courthouse, 76 Pearl Street, Room 305, Portland, ME 04101–4188, 207/780–3414

ACTION State Program Director, 10 Causeway Street, Room 473, Boston, MA 02222–1039, 617/565–7018

ACTION State Program Director, 6 World Trade Center, Room 758, New York, NY 10048–0206, 212/466–3481

ACTION State Program Director, 44 South Clinton Avenue, Suite 702, Trenton, NJ 08609–1507, 609/989–2243

ACTION State Program Specialist, U.S. Courthouse & Federal, Building, 445 Broadway, Room 103, Albany, NY 12207 518/472–3664

ACTION State Program Director, 6 World Trade Center, Room 758, New York, NY 10048–0206, 212/466–4471

ACTION State Program Director, (Puerto Rico & Virgin Islands), U.S. Federal Building, 150 Carlos Chardon Avenue, Suite C49, Hato Rey, PR 00918–1737, 809/766–5314

ACTION State Program Director, U.S. Customs House, 2nd & Chestnut Streets, Room 108, Philadelphia, PA 19106–2996, 215/597–9972

ACTION State Program Director, Federal Building, 600 Federal Place, Room 372–D, Louisville, KY 40202–2230, 502/582–6384

ACTION State Program Director, (Maryland & Delaware), Federal Building, 31 Hopkins Plaza, Room 1125, Baltimore, MD 21201–2814, 301/962–4443

ACTION State Program Director, Leveque Tower, 50 W. Broad Street, Room 304A, Columbus, OH 43215–3301 614/469–7441
ACTION State Program Director, Gateway Building, 3535 Market Street, Room 2460, Philadelphia, PA 19104–2996, 215/596–4077
ACTION State Program Director, (Virginia & District of Columbia), 400 North 8th Street, P.O. Box 10066, Room 1119, Richmond, VA 23240–1832, 804/771–2197
ACTION State Program Director, 603 Morris Street, 2nd Floor, Charleston, WV 25301–1409, 304/347–5246

Region IV

ACTION Regional Director, 101 Marietta Street NW., Suite 1003, Atlanta, GA 30323–2301, 404/331–2860
ACTION State Program Director, Beacon Ridge Tower, 600 Beacon Parkway West, Suite 770, Birmingham, AL 35209–3120, 205/290–7186
ACTION State Program Director, 3165 McCrory Street, Suite 115, Orlando, FL 32803–3750, 407/648–6117
ACTION State Program Director, 75 Piedmont Avenue NE., Suite 462, Atlanta, GA 30303–2587, 404/331–4646
ACTION State Program Director, Federal Building, 100 West Capitol Street, Room 1005–A, Jackson, MS 39269–1739, 601/905–5664
ACTION State Program Director, Federal Building/P.O. Century Station, 300 Fayetteville St. Mall, Room 131, Raleigh, NC 27601–1739, 919/856–4731
ACTION State Program Director, Federal Building, 1835 Assembly Street, Room 872, Columbia, SC 29201–2430, 803/765–5771
ACTION State Program Director, 265 Cumberland Bend Drive, Nashville, TN 37228–3889, 615/736–5561

Region V

ACTION Regional Director, 175 West Jackson Boulevard, Suite 1207, Chicago, IL 60604–2702, 312/353–5107
ACTION State Program Director, Federal Building, 210 Walnut, Room 722, Des Moines, IA 50309–2195, 515/284–4816
ACTION State Program Director, 175 West Jackson Boulevard, Suite 1207, Chicago, IL 60604–2702, 312/353–3622
ACTION State Program Director, 46 East Ohio Street, Room 457, Indianapolis, IN 46204–1922, 317/226–6724
ACTION State Program Director, Federal Building, 231 West Lafayette Boulevard, Room 658, Detroit, MI 48226–2799, 313/226–7848
ACTION State Program Director, 431 South 7th Street, Room 2480, Minneapolis, MN 55415, 612/334–4083
ACTION State Program Director, 517 East Wisconsin Avenue, Room 601, Milwaukee, WI 53202–4507, 414/291–1118

Region VI

ACTION Regional Director, 1100 Commerce Street, Room 6B11, Dallas, TX 75242–0696, 214/767–9494
ACTION State Program Director, Federal Building, 700 West Capitol Street, Room 2506, Little Rock, AR 72201–3291, 501/324–5234
ACTION State Program Director, Federal Building, 444 S.E. Quincy, Room 248, Topeka, KS 66603–3501, 913/295–2540
ACTION State Program Director, 640 Main Street, Suite 102, Baton Rouge, LA 70801–1910, 504/389–0471
ACTION State Program Director, Federal Office Building, 911 Walnut, Room 1701, Kansas City, MO 64106–2009, 816/426–5256
ACTION State Program Director, First Interstate Plaza, 125 Lincoln Avenue, Suite 214–B, Santa Fe, NM 87501–2026, 505/988–6577
ACTION State Program Director, 200 N.W. 5th Street, Suite 912, Oklahoma City, OK 73102–6093, 405/231–5201
ACTION State Program Director, 611 East Sixth Street, Suite 404, Austin, TX 78701–3747, 512/482–5671

Region VIII

ACTION Regional Director, Executive Tower Building, 1405 Curtis Street, Suite 2930, Denver, CO 80202–2349, 303/844–2671
ACTION State Program Director, Columbine Building, 1845 Sherman Street, Room 301, Denver, CO 80203–1167, 303/866–1070
ACTION State Program Director, Federal Office Bldg. Drawer, 10051, 301 South Park, Room 192, Helena, MT 59626–0101, 406/449–5404
ACTION State Program Director, Federal Building, 100 Centennial Mall North, Room 156, Lincoln, NE 68508–3896, 402/437–5493
ACTION State Program Director (South Dakota & North Dakota), Federal Building, 225 S. Pierre Street, Suite 225, Pierre, SD 57501–2452, 605/224–5996
ACTION State Program Director, Frank E. Moss U.S. Courthouse, 350 South Main Street, Room 484, Salt Lake City, UT 84101–2198, 801/524–5411
ACTION State Program Director, Federal Building, 2120 Capitol Avenue, Suite 8009, Cheyenne, WY 82001–3649, 307/772–2385

Region IX

ACTION Regional Director, 211 Main Street, Room 530, San Francisco, CA 94105–1914, 415/744–3013
ACTION State Program Director, 522 North Central, Room 205–A, Phoenix, AZ 85004–2190, 602/379–4825
ACTION State Program Director, Federal Building, 11000 Wilshire Boulevard, Room 11221, Los Angeles, CA 90024–3671, 213/575–7421
ACTION State Program Office, 211 Main Street, Room 534, San Francisco, CA 94105–1914, 415/744–3015
ACTION State Program Director, (Hawaii/Guam/American Samoa), Federal Building/P.O. Box 50024, 300 Ala Moana Boulevard, Room 6326, Honolulu, HI 96850–0001, 808/541–2832
ACTION State Program Director, 4600 Kietzke Lane, Suite E–141, Reno, NV 89502–5033, 702/784–5314
ACTION Regional Director, 915 Second Avenue, Jackson Federal Office Bldg., Suite 3190, Seattle, WA 98174–1103, 206/553–1558
ACTION State Program Director, 304 North 8th Street, Room 344, Boise, ID 83702–5835, 208/334–1707
ACTION State Program Director, Federal Building, 511 N.W. Broadway, Room 647, Portland, OR 97209–3416, 503/326–2261
ACTION State Program Director, Jackson Federal Office Building, 915 Second Avenue, Suite 3190, Seattle WA 98174–1103, 206/553–4975
ACTION State Program Director, (Alaska), 915 Second Avenue, Jackson Federal Office Bldg., Suite 3190, Seattle, WA 98174–1103, 206/553–1558

Signed at Washington, DC this 14th day of April, 1992.

Jane A. Kenny,

Director

[FR Doc. 92–9070 Filed 4–17–92; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Intent

AGENCY: Forest Service, USDA.

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

SUMMARY: The Forest Service is preparing a supplement to the Final Environmental Impact Statement for the Land and Resource Management Plan for the Eldorado National Forest, approved January 6, 1989. The supplement will disclose the effects of modifying the proposed Caples Creek Wilderness boundary near the confluence of Caples Creek and the Silver Fork of the American River to accommodate the proposed Foottrail Hydroelectric Project (FERC #3194). The supplement will be a site-specific analysis of the wilderness boundary recommendation with the hydroelectric project incorporated as a reasonably foreseeable use of the land. The agency gives notice of the full environmental analysis and decision-making process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the analysis.

DATE: A public scoping meeting will be held May 19, 1992, at the Placerville Inn Alexandria Room; 6850 Greenleaf Drive; Placerville, CA 95667. The meeting will begin at 6:30 p.m. and end at 10 p.m. Specific comments concerning the analysis should be submitted by June 15, 1992.

CONTACT: Written comments and suggestions about the supplement or questions about the proposed action may be addressed to Cindy Oswald, Resource Officer; Placerville Ranger District; Eldorado National Forest; 4260 Eight Mile Road; Camino, CA 95709; phone 916–644–2324.

SUPPLEMENTARY INFORMATION: The Eldorado National Forest Land and Resource Management Plan recommended 13,694 acres of the Caples Creek Further Planning Area for wilderness designation, including the area adjacent to the confluence of Caples Creek and the Silver Fork of the American River, where the Foottrail Hydroelectric Project has been proposed. In preparing the supplement, the Forest Service plans to look at two alternatives. One will analyze the effects of modifying the recommended wilderness boundary to accommodate the proposed Foottrail Project. The other will examine the effects of the boundary recommendation remaining the same.

Public participation will be especially important at several points throughout the environmental analysis process. Although not required for supplements (36 CFR 1502.9(c)(4)), the Forest Service will utilize a public scoping process. The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in the proposed action. This input will be used in preparation of the supplement. The scoping process includes:

1. Identifying the issues and determining the major issues for consideration and analysis within the supplement.
2. Determining the proper interdisciplinary team.
3. Determining the effective use of time and money in conducting the analysis.
4. Identifying the potential environmental, technical, and social impacts of the alternatives.
5. Determining potential cooperating agencies.
6. Identifying interested groups or individuals.

The Forest Supervisor, Eldorado National Forest, is the responsible official.

Upon completion of the draft supplement, the Forest Service will file a copy with the Environmental Protection Agency (EPA). EPA will publish a notice of availability of the draft supplement in the **Federal Register** (40 CFR 1502.9).

The comment period on the draft supplement will be 45 days from the date the EPA's notice of availability in the **Federal Register**. It is very important that those interested in the analysis participate at that at that time. Comments on the draft supplement should be as specific as possible and may address the adequacy of the supplement or the merit 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 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), and that environmental objections that could have been raised at the draft stages may be waived if not raised until after completion of the final *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.

After the comment period on the draft supplement ends, the comments will be analyzed and considered by the Forest Service in preparing the final supplement. In the final supplement, the Forest Service is required to respond to the comments and responses received (40 CFR 1503.4). The responsible officials will consider the comments; response; environmental consequences discussed in the draft supplement; and applicable laws, regulations, and policies in making a determination. If the responsible official determines that the boundary for the recommended wilderness area should be modified to accommodate the proposed Foottrail Hydroelectric Project, the Forest Supervisor will amend the Eldorado Forest Plan.

Dated: April 13, 1992.

K. Allister,

Acting Forest Supervisor, Eldorado National Forest.

[FR Doc. 92-9013 Filed 4-17-92; 8:45 am]

BILLING CODE 3410-11-M

Rocky Mountain Region, Environmental Impact Statement for the Illinois Creek Timber Sale, Grand Mesa, Uncompahgre and Gunnison National Forests, Gunnison County, CO

AGENCY: Forest Service, USDA.

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

SUMMARY: The Forest Service will prepare an environmental impact statement on the Illinois Creek Timber Sale located on the Gunnison National Forest, Taylor River Ranger District.

DATES: Comments concerning the scope and issues of the analysis should be received by June 1, 1992; Publication of Draft EIS: December, 1992; Final EIS: March, 1993.

ADDRESSES: Send written comments to Pam Bode, District Ranger, Taylor River Ranger District, 216 North Colorado, Gunnison, CO 81230.

FOR FURTHER INFORMATION CONTACT: Greg Smith, Forester, Taylor River Ranger District, 216 North Colorado, Gunnison, CO 81230, (303) 641-0471.

SUPPLEMENTARY INFORMATION: The Forest Service is proposing to re-offer the Illinois Creek Sale, which was originally sold in 1984 but later defaulted. The sale was again re-offered in 1988, but did not sell. The proposed sale is located on National Forest lands and would utilize clearcuts and the overstory removal step of the shelterwood system to harvest lodgepole pine. Under the proposed action, the gross sale area encompasses 3,630 acres, of which 586 acres would be harvested. The sale would reconstruct 2.6 miles of existing road, construct 7.7 miles of new road, and obliterate or isolate (obliterating all access points to a road to allow the remaining roadbed to revegetate naturally) 17.2 miles of existing road. The end result would be a net decrease of 12.6 road miles within the gross sale area.

Primary scoping of the Illinois Creek area identified eight issues. These issues are: (1) Visual Quality, (2) The sale area is within a roadless area as identified during the 1979 RARE II process, (3) Travel Management, (4) Wildlife Management and Protection, (5) Retention of Water Quality and Riparian areas, (6) Soils, (7) Old Growth, (8) Provide public access and protect private property along the right-of-way used to access the sale area. Based upon these preliminary issues three alternatives will be analyzed:

1. No action.
2. Harvest 586 acres by the clearcut and shelterwood methods, then leave local roads open to public access.
3. Harvest 586 acres using the clearcut and shelterwood methods, then close local roads to public access.

An open house is scheduled for Thursday, April 30, 1992, at the Taylor River District Office conference room from 3 p.m. to 7 p.m. to display and discuss the Illinois Creek Sale with the public. A news release to local media and interested parties on the Taylor River District's mailing list is being made in conjunction with the April 30th meeting.

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). Please note that comments on the draft environmental impact statement will be regarded as public information.

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. 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 objectives are made available to the Forest Service at a time when it can meaningful consider them and respond to them in the final.

The responsible official for this EIS is Robert L. Storch, Forest Supervisor, Grand Mesa, Uncompahgre and Gunnison National Forests, 2250 Highway 50, Delta, Colorado 81416.

Dated: April 14, 1992.

Robert L. Storch,

Forest Supervisor.

[FR Doc. 92-9043 Filed 4-17-92; 8:45 am]

BILLING CODE 3410-11-M

Grand Island Advisory Commission; Meeting

AGENCY: Forest Service, USDA

ACTION: Grand Island Advisory Commission meeting.

SUMMARY: The Grand Island Advisory Commission will meet on May 4, 1992 at 8 a.m. at the Munising Ranger District Office in Munising, Michigan. An agenda for the one day meeting will consist of a review of the latest alternatives, as developed by the Planning Team, for the Grand Island Draft Environmental Impact Statement; discuss and review recommendations by the Advisory Commission relating to proposal for non-Federal development on 55 acres as described in Public Law 101-292; and discuss plans for public involvement regarding the Draft EIS.

Interested members of the public are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions about this meeting to Art Easterbrook, Staff Officer, Hiawatha National Forest, 2727 N. Lincoln Road, Escanaba, MI 49829, (906) 786-4062.

Dated: April 14, 1992.

William F. Spinner,

Forest Supervisor.

[FR Doc. 92-9041 Filed 4-17-92; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.
Title: Enterprise Summary Report.
Form Number(s): ES-9100.
Agency Approval Number: None.
Type of Request: New collection.
Burden: 42,000 hours.
Number of Respondents: 14,000.
Avg Hours Per Response: 3 hours.
Needs and Uses: The Census Bureau will conduct the Enterprise Summary Report as part of the 1992 Economic Censuses. The economic censuses measure the economic activity of more than 5 million companies and their related establishments and are the primary source of facts about the structure and functioning of the Nation's economy. The Census Bureau will use the Enterprise Summary Report to collect consolidated enterprise totals for key census data items at the company level. By integrating the company-level data with data collected on various establishment forms, the Enterprise program publishes statistics about businesses at the company level in a form not available elsewhere in the Federal Government. The primary value of this publication program lies in its unique ability to relate statistical aggregates for companies with their component establishment statistics. The Bureau of Economic Analysis uses these data extensively for its "input-output" studies and other surveys. The Census Bureau's Industry Division uses these data to benchmark the Plant and Equipment Expenditures Survey. The Small Business Administration relies on theses data in determining size standards for small businesses. Additionally, data are used by many large companies for guidance in planning and administration.

Affected Public: Businesses or other for-profit organizations.
Frequency: Every five years.
Respondent's Obligation: Mandatory.
OMB Desk Officer: Maria Gonzalez, 395-7313.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 377-3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: April 13, 1992.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 92-9016 Filed 4-17-92; 8:45 am]

BILLING CODE 3510-07-F

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.
Title: Auxiliary Establishment Report.
Form Number(s): ES-9200.
Agency Approval Number: None.
Type of Request: New collection.
Burden: 60,000 hours.
Number of Respondents: 60,000.
Avg Hours Per Response: 1 hour.
Needs and Uses: The Census Bureau will conduct the Auxiliary Establishment Report as part of the 1992 Economic Censuses. The economic censuses measure the economic activity of more than 5 million companies and their related establishments and are the primary source of facts about the structure and functioning of the Nation's economy. The Census Bureau will use the Auxiliary Establishment Report to collect census data items on auxiliary units of multi-establishment enterprises within the scope of the economic censuses. These auxiliary units are

primarily engaged in general and business administration; management; research, development, and testing; warehousing; and other supporting services. Other economic census forms are not suitable for canvassing these establishments because they characteristically do not produce any products nor do they provide any services for the public, other companies, or the government.

Affected Public: Businesses or other for-profit organizations.

Frequency: Every five years.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Maria Gonzalez, (202) 395-7313.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 377-3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: April 13, 1992.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 92-9017 Filed 4-17-92; 8:45 am]

BILLING CODE 3510-07-F

International Trade Administration

[A-428-810]

Postponement of Final Antidumping Duty Determination and Public Hearing: High-Tenacity Rayon Filament Yarn from Germany

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

EFFECTIVE DATE: April 20, 1992.

FOR FURTHER INFORMATION CONTACT: Edward Easton or Cynthia Thirumalai, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-1777 or (202) 377-8498, respectively.

SUPPLEMENTARY INFORMATION: On April 1, 1992, in accordance with § 353.20(b) of the Department's regulations, respondent in this investigation requested that the Department postpone the final determination until May 15, 1992. Given that the preliminary determination was affirmative and compelling reasons for denying the request do not exist, we are postponing the final determination until not later than May 15, 1992. The case briefs are now due on April 17, and the rebuttal briefs on April 22, 1992. The public hearing which had been scheduled for April 16, now will be held on April 27, 1992, at 10 am at the U.S. Department of Commerce, room 1617M-4, 14th and Constitution Avenue, NW., Washington DC. Parties should conform by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

The U.S. International Trade Commission is being advised of this postponement.

Dated: April 14, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-9112 Filed 4-17-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-475-802]

Industrial Belts and Components and Parts Thereof From Italy; Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by both the petitioner and the respondent, the Department of Commerce has conducted an administrative review of the antidumping duty order on industrial belts and components and parts thereof, whether cured or uncured (hereinafter referred to as "industrial belts"), from Italy. The review covers one exporter during the period June 1, 1990 through May 31, 1991.

As a result of the review, the Department has preliminarily determined to assess antidumping duties based on the best information available.

Interested parties are invited to comment on the preliminary results of administrative review.

EFFECTIVE DATE: April 20, 1992.

FOR FURTHER INFORMATION CONTACT: Megan Pilaroscia or Art Stern, Office of Agreements Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-3793.

SUPPLEMENTARY INFORMATION:

Background

On June 14, 1989, the Department of Commerce (the Department) published in the **Federal Register** (54 FR 25313) the antidumping duty order on industrial belts from Italy. On June 28, 1991, both the petitioner and the respondent requested that we conduct an administrative review of the period June 1, 1990 through May 31, 1991. We published a notice of initiation of the antidumping administrative review on July 19, 1991 (56 FR 33250). The Department has now conducted this administrative review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act), as amended.

Scope of Review

Imports covered by the review are shipments of industrial belts and components and parts thereof, whether cured or uncured, from Italy. The covered merchandise consists of V-belts and synchronous industrial belts used for power transmission. These include V-belts and synchronous belts, in part or wholly of rubber or plastic, and containing textile fiber (including glass fiber) or steel wire, cord or strand, and whether in endless (*i.e.*, closed loops) belts, or in belting in lengths or links. This review excludes conveyor belts and automotive belts as well as front engine drive belts found on equipment powered by internal combustion engines, including trucks, tractors, buses, and lift trucks.

During the period of review, the merchandise was classifiable under Harmonized Tariff System (HTS) subheadings 3926.90.55, 3926.90.56, 3926.90.57, 3926.90.59, 3926.90.60, 4010.10.10, 4010.10.50, 4010.91.11, 4010.91.15, 4010.91.19, 4010.91.50, 4010.99.11, 4010.99.15, 4010.99.19, 4010.99.50, 5910.00.10, 5910.00.90, and 7326.20.00. The HTS subheadings are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the shipments of one manufacturer and exporter of industrial belts from Italy to the United States, Pirelli Trasmissioni Industriali, S.p.A. (Pirelli), and the period June 1, 1990 through May 31, 1991.

Preliminary Results of the Review

Because Pirelli did not submit a complete response to our questionnaires for the period of review, the Department has preliminarily determined to use the best information available. The best information available is the rate from the investigation of sales at less-than-fair-value. This rate is 74.90 percent (54 FR 15483, 15485, April 18, 1989).

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested parties may request a hearing within ten days of publication. Any hearing, if

requested, will be held 44 days after the date of publication of this notice or the first workday thereafter. Case briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rubuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed not later than 37 days after the date of publication. The Department will publish final results of this administrative review, including the results of its analysis of issues raised in any such written comments or at a hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed company will be that rate established in the final results of this administrative review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be the "all other" rate established in the final results of this administrative review. This rate represents the highest rate for any firm with shipments in this administrative review, other than those firms receiving a rate based entirely on best information available.

These deposit requirements when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumpting duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22 of the Commerce Department's regulations (19 CFR 353.22).

Dated: April 15, 1992.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-9113 Filed 4-17-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-351-606]

Tubeless Steel Disc Wheels From Brazil; Court of International Trade Decision

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

ACTION: Notice of Court of International Trade decision.

SUMMARY: On March 3, 1992, the United States Court of International Trade ("CIT") affirmed the International Trade Commission's amended determination on remand that the Commission could no longer find that imports of tubeless steel disc wheels from Brazil threatened injury to the domestic industry producing tubeless steel disc wheels. If the CIT's opinion in this case is not appealed, or is affirmed on appeal, then the antidumping duty order on tubeless steel disc wheels from Brazil will be revoked. The effective date of such revocation would be March 13,1992. Accordingly liquidation of all entries of tubeless steel disc wheels from Brazil is suspended effective March 13, 1992.

EFFECTIVE DATE: March 13, 1992.

FOR FURTHER INFORMATION CONTACT: Cameron Cardozo or Michael Rollin, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230, telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

In 1987, the International Trade Commission ("ITC") made a determination in investigation No. 731-TA-335 (Final) that an industry in the United States was threatened with material injury by reason of less than fair value ("LTFV") imports from Brazil of tubeless steel disc wheels, provided for in item 692.3230 of the former Tariff Schedules of the United States Annotated (TSUSA), that had been found by Commerce to be sold in the United States at LTFV. The Department of Commerce published an antidumping duty order on tubeless steel disc wheels from Brazil on May 28, 1987 (52 FR 19903). Thereafter, on September 7, 1988, in response to the CIT's remand in *Borlem S.A. Empreendimentos Industriais* v. *United States*, 12 CIT 563, Slip Op. 88-77 (June 15, 1988), the Department of Commerce amended its original affirmative LTFV determination to exclude from the scope of its determination imports of the subject product from a significant Brazilian manufacturer/exporter (53 FR 34566).

On March 10, 1989, in a case challenging the ITC injury determination, the CIT remanded the case to the ITC to allow the Commission to make a finding as to whether it should reconsider its determination in view of the Commerce amendment and, if it found reconsideration to be appropriate, to make a new determination. In April 1989, the Commission reported to the Court its determination that the Commission did not have the power to reconsider its final affirmative threat of material injury determination. *Tubeless Steel Disc Wheels from Brazil*, USITC Pub. No. 2179 (Views on Remand in Inv. No. 731-TA-355).

In 1989, the Court held that the ITC did have the power to reconsider its injury determination. The CIT again remanded the case to the ITC for additional proceedings. *Borlem S.A.—Empreendimentos Industriais*, 718 F. Supp. 41, 49 (CIT 1989).[1] On November 4, 1991, the International Trade Commission issued its second remand results in the case. *Tubeless Steel Disc Wheels from Brazil; Determination on Reconsideration of the Commission*, USITC Pub. No. 2448, Inv. No. 731-TA-335 (Final) (Nov. 1991). In those results, the ITC reversed its original affirmative threat of injury determination. This remand was affirmed by the CIT on March 3, 1992, *Borlem S.A.—Empreendimentos Industriais and FNV—Veiculos E Equipamentos S.A.* v. *United States et al.*, Court No. 87-06-00693, Slip Op. 92-22 (CIT March 3, 1992).

In its decision in *Timken Co.* v. *United States*, 893 F.2d 337 (Fed. Cir. 1990), the Court of Appeals for the Federal Circuit held that, pursuant to 19 U.S.C. section 1516a(e), the Department must publish a notice of a Court decision which is not

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[1] The Court's remand order was affirmed by the Court of Appeals for the Federal Circuit. *Borlem S.A.—Empreendimentos Industriais* v. *United States*, 913 F.2d 933 (Fed. Cir. 1990).

"in harmony" with an International Trade Commission or Department determination and must suspend liquidation of entries pending a "conclusive" court decision. The Court of International Trade's decision of March 3, 1992 constitutes a decision not in harmony with a Commission decision.

Accordingly, liquidation of all entries of tubeless steel disc wheels from Brazil entered on or after march 13, 1992 is hereby suspended. Absent an appeal, or, if appealed, upon a "conclusive" decision by the Court of Appeals for the Federal Circuit, affirming the CIT, the Department will revoke the antidumping duty order on tubeless steel disc wheels from Brazil, effective March 13, 1992.

Dated: April 10, 1992.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-9111 Filed 4-17-92; 8:45 am]

BILLING CODE 3510-DS-M

The Pennsylvania State University, et al., Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 92-001. *Applicant:* The Pennsylvania State University, University Park, PA 16802. *Instrument:* Spectrofluorimeter, Model DX.17MV. *Manufacturer:* Applied Photophysics, United Kingdom. *Intended Use:* See notice at 57 FR 4004, February 3, 1992. *Reasons:* The foreign instrument provides sequential mixing with microlitre sample capability and computer control. *Advice Received From:* National Institutes of Health, January 14, 1992.

Docket Number: 91-198. *Applicant:* U.S. Department of Commerce/National Oceanic and Atmospheric Administration, Research Triangle Park, NC 27711. *Instrument:* Fast Response Flame-ionization Detector Hydrocarbon Analyzer System, Model HFR 300. *Manufacturer:* Cambustion Ltd., United Kingdom. *Intended Use:* See notice at 57 FR 4003, February 3, 1992. *Reasons:* The foreign instrument provides peak instantaneous values of hydrocarbon gas concentration fluctuation with a frequency response of 300 Hz. *Advice Received From:* National Institute of Standards and Technology, February 27, 1992.

Docket Number: 91-202. *Applicant:* Massachusetts Institute of Technology, Cambridge, MA 02139. *Instrument:* Crystal Growth Apparatus. *Manufacturer:* Moscow Power Engineering Institute, C.I.S. *Intended Use:* See notice at 57 FR 4004, February 3, 1992. *Reasons:* The foreign instrument provides an arc imaging float zone furnace for growth of single crystals of high temperature superconductor materials. *Advice Received From:* Lawrence Livermore National Laboratory, February 28, 1992.

Docket Number: 91-182. *Applicant:* The University of Kansas, Lawrence, KS 66045. *Instrument:* Mass Spectrometer System, Model VG Autospec-Q. *Manufacturer:* VG Instruments, United Kingdom. *Intended Use:* See notice at 57 FR 1724, January 15, 1992. *Reasons:* The foreign instrument provides: (1) Exact mass determination with accuracy to 10.0 ppm, (2) trisector MS/MS with EBE double-focusing geometry and (3) static and flow FAB. *Advice Submitted By:* National Institutes of Health, March 5, 1992.

Docket Number: 91-176. *Applicant:* University of California at Los Angeles, Los Angeles, CA 90024-1769. *Instrument:* Video Oculography System. *Manufacturer:* Senso Motoric Instruments GmbH, Germany. *Intended Use:* See notice at 57 FR 400, January 6, 1992. *Reasons:* The foreign instrument provides non-invasive binocular measurement of eye counter-rolling for studies of motion sickness susceptibility. *Advice Submitted By:* National Institutes of Health, March 5, 1992.

Docket Number: 91-184. *Applicant:* The Connecticut Agricultural Experiment Station, New Haven, CT 06504. *Instrument:* Volumetric Spore Trap. *Manufacturer:* Burkard Manufacturing Co., Ltd., United Kingdom. *Intended Use:* See notice at 57 FR 1725, January 15, 1992. *Reasons:* The foreign instrument provides accurate counts of airborne spores (including the 1.0 to 10.0 μm range) and can operate unattended and continuously on battery power for up to 7 days. *Advice Submitted By:* National Institutes of Health, March 5, 1992.

The National Institutes of Health, National Institute of Standards and Technology and Lawrence Livermore National Laboratory advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92-9115 Filed 4-17-92; 8:45 am]

BILLING CODE 3510-OS-M

University of New Hampshire; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 91-189. *Applicant:* University of New Hampshire, Durham, NH 03824. *Instrument:* Electron Microscope Accessories. *Manufacturer:* Hitachi Ltd., Japan. *Intended Use* See notice at 57 FR 4002, February 3, 1992.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be sued, is being manufactured in the United States. *Reasons:* This is a compatible accessory for an instrument previously imported for the use of the applicant. The instrument and accessory were made by the same manufacturer. The National Institutes of Health advises in its memorandum dated March 5, 1992, that the accessory is pertinent to the intended uses and that it knows of no comparable domestic accessory.

We know of no domestic accessory which can be readily adapted to the instrument.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92-9116 Filed 4-17-92; 8:45 am]

BILLING CODE 3510-DS-M

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-561); 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 91–112R. *Applicant:* Vanderbilt School of Medicine, 21st Avenue South at Garland, Nashville, TN 37232–2250. *Instrument:* Micromanipulator, Model MK 1. *Manufacturer:* Singer Instrument Co., Ltd., United Kingdom. Original notice of this resubmitted application was published in the **Federal Register** of August 19, 1991.

Docket Number: 92–034. *Applicant:* Washington University, 1130 Hampton Avenue, Box 1147, St. Louis, Mo 63139. *Instrument:* Fluorescence Kinetics Instrument. *Manufacturer:* Walz, German. Intended Use: The instrument will be used to monitor light induced time-dependent fluorescence changes in photosynthetic organisms. *Application Received by Commissioner of Customs:* March 17, 1992.

Docket Number: 92–035 *Applicant:* University of California, Berkeley, Department of Chemistry, 410 Latimer Hall, Berkeley, CA 94720. *Instrument:* Brewster Angle Microscope. *Manufacturer:* Nanofilm Technologic GmbH, Germany. Intended Use: The instrument will be used to study the structure of mono-molecular films at the air/water interface. Experiments will be conducted to correlate the structure of the molecular films at the water/air interface with concentration of the molecules forming the film. *Application Received by Commissioner of Customs:* March 17, 1992.

Docket Number: 92–036. *Applicant:* The Research Corporation of the University of Hawaii, room 402, 1110 University Avenue, Honolulu, HI 96826. *Instrument:* Multiple Corer System. *Manufacturer:* Adolf Wuttke GmbH and Company, Germany. *Intended Use:* The instrument will be used to sample undisturbed deep-sea sediments for microbiological, radiochemical and meiofaunal studies. These studies are integral components of a project designed to evaluate the environmental impacts of sediment deposition from manganese-nodule mining at the deep-sea-floor. There is another project designed to assess radiochemical inventories and microbial abundances in the equatorial Pacific Ocean. *Application Received by Commissioner of Customs:* March 17, 1992.

Docket Number: 92–037 *Applicant:* University of Hawaii, Geology and Geophysics, 2525 Correa Road, Honolulu, HI 96822. *Instrument:* Electron Microprobe, Model CAMEBAX SX 50. *Manufacturer:* Cameca Instruments Inc., France. Intended Use: The instrument will be used to generate data which forms the basis for studying the origin and evolution of rocks, minerals, and metal phases in igneous, metamorphic, and sedimentary rocks and in meteorites and lunar samples. In addition, the instrument will be used in the course Geology 735: X-ray Analytical Methods in Geology, with the objective of establishing a firm theoretical background in the principles and operation of the electron microprobe and to provide practical experience in operating the instrument. *Application Received by Commissioner of Customs:* March 17, 1992.

Docket Number: 92–038. *Applicant:* Emory University, School of Medicine, 1648 Pierce Drive, Atlanta, GA 30322. *Instrument:* Spot-focus High Energy Xenon Flash Lamp, Model XF–10 with Accessory. *Manufacturer:* Hi-Tech Scientific LDT, United Kingdom. Intended Use: The instrument will be used for studies of the regulation of the free ionic calcium concentration inside living smooth muscle cells. The investigation is designed to determine:

(a) The ratio of bound to free calcium inside living smooth muscle cells over the range of free ionic calcium concentration that it normally exists at,

(b) The kinetics of the binding of calcium to the proteins that normally bind the majority of the calcium inside cells, and

(c) With the information from (a) and (b) the kinetics of a wide range of processes that control the cellular free ionic calcium concentration.

Application Received by Commissioner of Customs: March 17, 1992.

Docket Number: 92–040. *Applicant:* U.S. Department of Agriculture, Agricultural Research Service, Contracting and Assistance Division, ADP & Major Equipment Branch, 6303 Ivy Lane, room 750, Greenbelt, MD 20770–1443. *Instrument:* ICP Mass Spectrometer, Model PlasmaQuad PQ 2. *Manufacturer:* VG Elemental, United Kingdom. *Intended Use:* The instrument will be used for studies of accessible human samples, such as blood, blood components, urine, feces and breast milk to determine the metabolic fate of labeled trace elements through pharmacokinetics. *Application Received by Commissioner of Customs:* March 18, 1992.

Docket Number: 92–041. *Applicant:* Auburn University, Purchasing Department, 311 Ingram Hall, Auburn University, AL 36849–5101. *Instrument:* Conductivity Stopped-Flow Attachment, Model SF–51. *Manufacturer:* Hi-Tech Scientific Ltd., United Kingdom. *Intended Use:* The instrument will be attached to an existing stopped-flow rapid kinetics instrument. This modified instrument will then be able to yield a signal characteristic of chemical reactions of SO_3, NO and N_2H_2 in aqueous solution because the reactions generate a substantial change in electrical conductivity. *Application Received by Commissioner of Customs:* March 18, 1992.

Docket Number: 92–042. *Applicant:* University of California, Lawrence Livermore National Laboratory, 7000 East Avenue, P.O. Box 808, Livermore, CA 94550. *Instrument:* 3-Dimensional Stereoscopic Television System. *Manufacturer:* AEA Technology, Harwell Laboratory, United Kingdom. *Intended Use:* The instrument will be used for studies of common objects used in special nuclear materials processing (i.e. boots, gloves, crucibles, wrenches, salt cakes etc.). The instrument substitutes a stereoscopic video image for actual human vision. This is required when the human is unable to be in the same location but must have an image providing depth perception. The properties of the materials being investigated include all those items which can be viewed in the visible light region of the electromagnetic spectrum. *Application Received by Commissioner of Customs:* March 18, 1992.

Docket Number: 92–043. *Applicant:* Stanford Linear Accelerator Center, P.O. Box 4349, Stanford, CA 94309. *Instrument:* Vertex Detector—High Precision Elementary Particle Tracking Detector. *Manufacturer:* Rutherford Appleton Laboratory, United Kingdom. *Intended Use:* The instrument will be used for the investigation of production mechanisms and decay properties of subatomic particles produced at the Stanford Linear Collider. In particular, the instrument plays a critical role in the identification of clean samples of particles containing heavy quarks (charm and beauty) to extend the understanding of these particles and the basic interactions between quarks central to all matter. *Application Received by Commissioner of Customs:* March 19, 1992.

Docket Number: 92–044. *Applicant:* National Institute of Standards and Technology, Gaithersburg, MD 20899. *Instrument:* Dead-weight Testing Machine for Hardness. *Manufacturer:* Officine Galileo, Italy. *Intended Use:* The instrument will be used for experiments in which the hardness of metals will be determined and calibration of hardness test blocks will be conducted. Hardness measurements will be made by determining the load versus time and indentor displacement versus time. *Application Received by Commissioner of Customs:* March 19, 1992.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92–9114 Filed 4–17–92; 8:45 am]

BILLING CODE 3510–DS–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment and Establishment of Import Restraint Limits, Guaranteed Access Levels and Import Restraint Periods for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Costa Rica

April 14, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending and establishing import restraint limits, guaranteed access levels and restraint periods.

EFFECTIVE DATE: April 21, 1992.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566–5810. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the

Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Governments of the United States and Costa Rica agreed to establish a new bilateral textile agreement which consists of two calendar year periods beginning on January 1, 1992 and extending through December 31, 1993. The agreement establishes import restraint limits and guaranteed access levels (GAL's) for Categories 340/640, 342/642, 347/348 and 443.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to amend the current restraint periods for Categories 340/640, 342/642, 347/348 and 443 to end on December 31, 1991 at amended levels. Also, import limits and guaranteed access levels are being established for the period beginning on January 1, 1992 and extending through December 31, 1992. Carryover is being applied to the 1992 import restraint limit for Categories 347/348.

Beginning on April 21, 1992, the U.S. Customs Service will start signing the first section of the form ITA–370P for shipments of U.S. formed and cut parts in Category 443 exported from the United States on and after April 21, 1992, destined for Costa Rica and subject to the GAL established for Category 443. These products are governed by Harmonized Tariff item number 9802.00.8010 and chapter 61 Statistical Note 5 and chapter 62 Statistical Note 3 of the Harmonized Tariff Schedule. Interested parties should be aware that shipments of cut parts in Category 443 must be accompanied by a form ITA–370P, signed by a U.S. Customs officer, prior to export from the United States for assembly in Costa Rica in order to qualify for entry under the Special Access Program.

A copy of the current bilateral agreement is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State (202) 647–3889.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 56 FR 60101 published on November 27, 1991). Also see 56 FR 22157 published on May 14, 1991; and 56 FR 55120, published on October 24, 1991.

Requirements for participation in the Special Access Program are available in Federal Register notices 51 FR 21208, published on June 11, 1986; 52 FR 26057, published on July 10, 1987; 54 FR 50425, published on December 6, 1989; and 55 FR 21047, published on May 22, 1990.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 14, 1992.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on May 8, 1991 and October 21, 1991, by the Chairman, Committee for the Implementation of Textile Agreements. Those directives concern imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Costa Rica and exported during the periods beginning on June 1, 1991 and extending through May 31, 1992, in the case of Categories 340/640, 342/642 and 347/348; and August 30, 1991 and extending through August 29, 1992, in the case of Category 443.

Effective on April 21, 1992, you are directed to reduce the current limits for the following categories and amend the current restraint periods to end on December 31, 1991:

Category	Amended limit [1]
340/640	376,873 dozen.
342/642	139,125 dozen.
347/348	557,116 dozen.
443	63,736 numbers.

[1] The limits have not been adjusted to account for any imports exported after August 29, 1991 for Category 443 and May 31, 1991 for the remaining categories.

Effective on April 21, 1992, you are directed to reduce the current guaranteed access levels for the new period which begins on June 1, 1991 and extends through December 31, 1991, as follows:

Category	Guaranteed access level
340/640	379,169 dozen.
342/642	145,831 dozen.
347/348	583,331 dozen.

Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1991; pursuant to the Bilateral Textile Agreement of March 20, 1992, between the Governments of the United States and Costa Rica; and in accordance with the provisions of Executive Order 11651 of March 1, 1972, as amended, you are directed to prohibit, effective on April 21, 1992, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Costa Rica and exported during the twelve-month period beginning on January 1, 1992 and extending through December 31, 1992, in excess of the following restraint limits:

Category	Twelve month limit [1]
340/640	668,685 dozen.
342/642	246,851 dozen.
347/348	1,104,895 dozen.
443	200,000 numbers.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1991.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the current bilateral agreement between the Governments of the United States and Costa Rica.

You are directed to deduct the following amounts from the charges made to the following categories for the periods beginning on June 1, 1991 for Categories 340/640, 342/642 and 347/348; and August 30, 1991 for Category 443, and extending through December 31, 1991:

Category	Amount to be deducted
340/640	48,959 dozen.
342/642	5,815 dozen.
347/348	154,528 dozen.
443	16,992 numbers.

You are directed to charge the following amounts to the limits established for the new restraint period beginning on January 1, 1992 and extending through December 31, 1992:

Category	Amount to be charged
340/640	48,959 dozen.
342/642	5,815 dozen.
347/348	154,528 dozen.
443	16,992 numbers.

Imports charged to Categories 340/640, 342/642 and 347/348 for the period June 1, 1991 through December 31, 1991 and Category 443 for the period August 30, 1991 through December 31, 1991 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for those periods have been exhausted by previous entries, such goods shall be subject to the 1992 levels set forth in this directive.

Additionally, pursuant to the Bilateral Textile Agreement of March 20, 1992; and under the terms of the Special Access Program, as set forth in 51 FR 21208 (June 11, 1986), 52 FR 26057 (July 10, 1987) and 54 FR 50425 (December 6, 1989), effective on April

21, 1992, guaranteed access levels have been established for properly certified textile products assembled in Costa Rica from fabric formed and cut in the United States in cotton, wool and man made fiber textile products in the following categories for the period January 1, 1992 through December 31, 1992:

Category	Guaranteed access level
340/640	650,000 dozen.
342/642	250,000 dozen.
347/348	1,500,000 dozen.
443	200,000 numbers.

Any shipment for entry under the Special Access Program which is not accompanied by a valid and correct certification and Export Declaration in accordance with the provisions of the certification requirements established in the directive of May 15, 1990, shall be denied entry unless the Government of Costa Rica authorized the entry and any charges to the appropriate specific limits. Any shipment which is declared for entry under the Special Access Program but found not to qualify shall be denied entry into the United States.

Beginning on April 21, 1992, U.S. Customs is directed to start signing the first section of the form ITA-370P for shipments of U.S. formed and cut parts in Category 443 that are destined for Costa Rica and re-exported to the United States on and after April 21, 1992.

You are directed to deduct the following charges made to the GAL's for the period June 1, 1991 through December 31, 1991. These same amounts shall be charged to the corresponding categories for the new period beginning on January 1, 1992 and extending through December 31, 1992.

Category	Amount to be deducted/ charged
340/640	9,811 dozen.
342/642	1,795 dozen.
347/348	203,482 dozen.

Additional charges will be provided as data become available.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-9038 Filed 4-17-92; 8:45 am]

BILLING CODE 3510-DR-F

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Sri Lanka

April 15, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: April 22, 1992.

FOR FURTHER INFORMATION CONTACT: Kim-Bang Nguyen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Categories 351/651 is being increased by application of special shift, reducing the limit for Categories 352/652 to account for the increase.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991). Also see 56 FR 29232, published on June 26, 1991.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 15, 1992.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on June 21, 1991, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products and silk blend and other vegetable fiber apparel, produced or manufactured in Sri Lanka and exported during the twelve-month period which began on July 1, 1991 and extends through June 30, 1992.

Effective on April 22, 1992, you are directed to amend further the directive dated June 21, 1991 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and Sri Lanka:

Category	Adjusted twelve-month limit [1]
351/651	228,355 dozen.
352/652	980,631 dozen.

[1] The limits have not been adjusted to account for any imports exported after June 30, 1991.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-9045 Filed 4-17-92; 8:45 am]

BILLING CODE 3510-DR-F

Establishment and Amendment of Import Limits and Amendment of Visa Requirements for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Taiwan

April 14, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing and amending limits and amending visa requirements.

EFFECTIVE DATE: April 23, 1992 and May 1, 1992.

FOR FURTHER INFORMATION CONTACT: Kim-Bang Nguyen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-8791. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The American Institute in Taiwan (AIT) and the Coordination Council for North American Affairs (CCNAA) agreed to amend the Bilateral Textile Agreement, effected by exchange of notes dated August 21, 1990 and September 28, 1990, to establish and amend limits for certain textile products, produced or manufactured in Taiwan and exported during the one-year agreement periods beginning on January 1, 1992 and extending through December 31, 1995.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish and amend certain limits for the 1992 agreement period.

Also, the existing visa requirements are being amended to include coverage of cotton and man-made fiber textile products in part-Categories 347–K/348–K, 347–W/348–W, 647–K/648–K and 647–W/648–W, produced or manufactured in Taiwan and exported from Taiwan on and after May 1, 1992.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991). Also see 56 FR 26656, published on June 10, 1991; and 56 FR 58557, published on November 20, 1991.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 14, 1992

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 15, 1991, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1992 and extends through December 31, 1992.

Effective on April 23, 1992, you are directed to amend the directive dated November 15, 1991 to establish and amend limits for the following categories:

Category	Adjusted twelve-month limit [a]
Subgroup in Group I	
200, 219, 313, 314, 315, 361, 369–S [b] and 604, as a group.	126,048,101 square meters equivalent.
Group II	
237, 239, 330–332, 333/334/335, 336, 338/339, 340–345, 347/348, 349, 350/650, 351, 352/652, 353, 354, 359–C/659–C [c], 359–H/659–H [d], 359–O [e], 431–444, 445/446, 447/448, 459, 630–632, 633/634/635, 636, 638/639, 640, 641–644, 645/646, 647/648, 649, 651, 653, 654, 659–S [f], 659–O [g], 831–844 and 846–859, as a group.	755,000,000 square meters equivalent.
Subgroup in Group II	
333/334/335, 341, 342, 350/650, 351, 447/448, 636, 641 and 651, as a group.	71,957,657 square meters equivalent.
Sublevels in Group II	
347/348	2,339,931 dozen of which not more than 1,064,931 dozen shall be in Categories 347–W/348–W [h].
359–C/659–C	1,447,633 kilograms.
638/639	6,585,858 dozen.
640	1,058,969 dozen of which not more than 281,710 dozen shall be in Category 640–Y [i].
642	777,133 dozen.
645/646	4,107,691 dozen.
647/648	5,473,544 dozen of which not more than 5,248,544 dozen shall be in Categories 647–W/648–W [j].
659–S	1,601,702 kilograms.

[a] The limits have not been adjusted to account for any imports exported after December 31, 1991.

[b] Category 369–S: only HTS number 6307.10.2005.

[c] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.3034, 6104.62.1020, 6104.69.3010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.3014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[d] Category 359–H: only HTS numbers 6505.90.1540 and 6505.90.2060; Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[e] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.3034, 6104.62.1020, 6104.69.3010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025, 6211.42.0010 (Category 359–C); 6505.90.1540 and 6505.90.2060 (Category 359–H).

[f] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[g] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.3014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 (Category 659–S).

[h] Category 347–W: only HTS numbers 6203.19.1020, 6203.19.4020, 6203.22.3020, 6203.22.3030, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.42.4050, 6203.42.4060, 6203.49.3020, 6210.40.2035, 6211.20.1520, 6211.20.3010 and 6211.32.0040; Category 348–W: only HTS numbers 6204.12.0030, 6204.19.3030, 6204.22.3040, 6204.22.3050, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.62.4055, 6204.62.4065, 6204.69.3010, 6204.69.9010, 6210.50.2035, 6211.20.1550, 6211.20.6010, 6211.42.0030 and 6217.90.0050.

[i] Category 640–Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

[j] Category 647–W: only HTS numbers 6203.23.0060, 6203.23.0070, 6203.29.2030, 6203.29.2035, 6203.43.2500, 6203.43.3500, 6203.43.4010, 6203.43.4020, 6203.43.4030, 6203.43.4040, 6203.49.1500, 6203.49.2010, 6203.49.2030, 6203.49.2040, 6203.49.2060, 6203.49.3030, 6210.40.1035, 6211.20.1525, 6211.20.3030 and 6211.33.0030; Category 648–W: only HTS numbers 6204.23.0040, 6204.23.0045, 6204.29.2020, 6204.29.2025, 6204.29.4038, 6204.63.2000, 6204.63.3000, 6204.63.3510, 6204.63.3530, 6204.63.3532, 6204.63.3540, 6204.69.2510, 6204.69.2530, 6204.69.2540, 6204.69.2560, 6204.69.3030, 6204.69.9030, 6210.50.1035, 6211.20.1555, 6211.20.6030, 6211.43.0040 and 6217.90.0060.

For visa purposes, effective on May 1, 1992, you are directed to amend the directive dated June 5, 1991, to include the coverage of cotton and man-made fiber textile products in part-Categories 347–W/348–W [1], 347–K/348–K [2], 647–W/648–W [3] and 647–K/648–K [4],

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[1] Category 347–W: only HTS numbers 6203.19.1020, 6203.19.4020, 6203.22.3020, 6203.22.3030, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.42.4050, 6203.42.4060, 6203.49.3020, 6210.40.2035, 6211.20.1520, 6211.20.3010 and 6211.32.0040; Category 348–W: only HTS numbers 6204.12.0030, 6204.19.3030, 6204.22.3040, 6204.22.3050, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.62.4055, 6204.62.4065, 6204.69.3010, 6204.69.9010, 6210.50.2035, 6211.20.1550, 6211.20.6010, 6211.42.0030 and 6217.90.0050.

[2] Category 347–K: all HTS numbers except those in Category 347–W; Category 348–K: all HTS numbers except those in Category 348–W.

[3] Category 647–W: only HTS numbers 6203.23.0060, 6203.23.0070, 6203.29.2030, 6203.29.2035, 6203.43.2500, 6203.43.3500, 6203.43.4010, 6203.43.4020, 6203.43.4030, 6203.43.4040, 6203.49.1500, 6203.49.2010, 6203.49.2030, 6203.49.2040, 6203.49.2060, 6203.49.3030, 6210.40.1035, 6211.20.1525, 6211.20.3030 and 6211.33.0030; Category 648–W: only HTS numbers 6204.23.0040, 6204.23.0045, 6204.29.2020, 6204.29.2025, 6204.29.4038, 6204.63.2000, 6204.63.3000, 6204.63.3510, 6204.63.3530, 6204.63.3532, 6204.63.3540, 6204.69.2510, 6204.69.2530, 6204.69.2540, 6204.69.2560, 6204.69.3030, 6204.69.9030, 6210.50.1035, 6211.20.1555, 6211.20.6030, 6211.43.0040 and 6217.90.0060.

[4] Category 647–K: all HTS numbers except those in Category 647–W; Category 648–K: all HTS numbers except those in Category 648–W.

produced or manufactured in Taiwan and exported from Taiwan on and after May 1, 1992.

Textile products in Categories 347-W/348-W, 347-K/348-K, 647-W/648-W and 647-K/648-K which are produced or manufactured in Taiwan and exported from Taiwan on and after May 1, 1992 must be accompanied by the correct part-category or correct merged category corresponding to the actual shipment.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-9037 Filed 4-17-92; 8:45 am]

BILLING CODE 3510-DR-F

COMMODITY FUTURES TRADING COMMISSION

Advisory Committee on CFTC-State Cooperation Meeting

This is to give notice, pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, section 10(a), that the Commodity Futures Trading Commission's Advisory Commission on CFTC-State Cooperation will conduct a public meeting on Tuesday, May 12, 1992 int he Hearing Room on the basement level of the Commission's Washington D.C. headquarters, 2033 K Street, NW., Washington, DC 20581. This meeting will be held between 9 a.m. and 1 p.m.The agenda will consist of the following:

Agenda

1. Opening remarks—Wendy L. Gramm, Chairman, CFTC; Fowler C. West, Commissioner, CFTC and Chairman, Advisory Committee on CFTC-State Cooperation;

2. Discussion about state/federal regulatory issues involving commodity pools, particularly bifurcated risk disclosure, proposed Commission Rule 4.7 concerning exemptions for commodity pool operators and commodity trading advisors for offerings to qualified eligible participants, and the feasibility of a commodity trading advisor performance index;

3. Report on the status of the adoption by the states of the North American Securities Administrators Association's Model State Commodity Code, and an update on bank-financed precious metals programs and state regulation;

4. Discussion about ways in which public school systems can be encouraged to incorporate investment-related consumer education programs into existing cirricula;

5. Report on CFTC/state enforcement efforts, particularly regarding overseas off-exchange operations;

6. Report on the status of the CFTC reauthorization legislation; and

7. Discussion of other matters of concern to Advisory Committee members.

The Advisory Committee was created by the Commodity Futures Trading Commission for the purpose of receiving advice and recommendations on matters of joint concern to the States and the Commission arising under the Commodity Exchange Act, as amended. The purposes and objectives of the Advisory Committee on CFTC-State Cooperation are more fully set forth in the March 17, 1992 Eighth Renewal Charter of the Advisory Committee.

The meeting is open to the public. The Chairman of the Advisory Committee, Commissioner Fowler C. West, is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: The Advisory Committee on CFTC-State Cooperation c/o Commissioner Fowler C. West, Commodity Futures Trading Commission, 2033 K Street, NW., Washignton, DC 20581, before the meeting. Members of the public who wish to make oral statements should also inform Commissioner West in writing at the foregoing address at least three business days before the meeting. Reasonable provision will be made, if time permits, for an oral presentation of no more than five minutes each in duration.

Issued by the Commission in Washington, DC , on April 14, 1992.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 92-9055 Filed 4-17-92; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER92-198-002, et al.]

Consumers Power Company, et al.; Electric rate, Small power production, and Interlocking Directorate filings

Take notice that the following filings have been made with the Commission:

1. Consumers Power Co.

[Docket No. ER92-198-002]

April 9, 1992.

Take notice that on April 2, 1992, Consumers Power Company tendered for filing its compliance filing in this docket pursuant to the Commission's order issued on March 23, 1992.

Comment date: April 23, 1992, in accordance with Standard Paragraph E at the end of this notice.

2. Iowa Power Inc.

[Docket No. ER92-288-000]

April 9, 1992.

Take notice that on April 2, 1992, Iowa Power Inc. (Iowa Power) tendered for filing the first amendment to the original filing for this docket dated January 27, 1992.

Iowa Power states that the first amendment to the filing provides for a revised effective date of the General Facilities Agreement between Iowa Power and Central Iowa Power Cooperative. The initial filing requested an effective date of January 1, 1992, which has been amended to a date that will be designated by the FERC upon acceptance of the filing.

Comment date: April 23, 1992, in accordance with Standard Paragraph E at the end of this notice.

3. Potomac Electric Power Co.

[Docket No. ER92-430-000]

April 9, 1992.

Take notice that on April 1, 1992, the Potomac Electric Power Company (Pepco) submitted for filing supplements to Pepco FERC Rate Schedule No. 20, the "Facilities Agreement" between Pepco and Virginia Electric and Power Company (Virginia Power) dated April 1, 1965, and to Pepco FERC Rate Schedule No. 35, the "Interconnection Agreement" between Pepco and Virginia Power dated May 25, 1983. Virginia Power submitted its certificate of concurrence. An effective date of June 1, 1992 is requested.

Pepco states that this filing is the result of arms-length negotiations between the parties and an independent power producer, Patowmack Power Partners, L.P. (PPP). The supplements provide for the construction, maintenance and operation of new or rebuilt transmission and substation facilities (and related retirements) providing a new circuit to delivery the output of PPP's planned 315 megawatt generating station in Loudoun County, Virginia to Pepco's electric system at Dickerson Station in Montgomery County, Maryland. These facilities will also be capable of providing an

additional connection between PPP or Pepco and Virginia Power's electric system at Pleasant View Substation in Loudoun County Virginia. PPP supports the filing.

Comment date: April 23, 1992, in accordance with Standard Paragraph E end of this notice.

4. Southern Company Services, Inc.

[Docket No. ER92-316-000]

April 9, 1992.

Take notice that on April 1, 1992, Duke Power Company filed a letter containing information requested by the FERC Staff, and amending Page 4 of 5 of Duke's Appendix A to the Interchange Agreement.

Comment date: April 23, 1992, in accordance with Standard Paragraph E at the end of this notice.

5. Northern States Power Co. (Minnesota) and Northern States Power Co. (Wisconsin)

[Docket No. EL91-2-002]

April 9, 1992.

Take notice that on March 23, 1992, Northern States Power Company (NSP) tendered for filing its compliance filing in this docket. NSP states this filing is pursuant to the Commission's order issued on February 6, 1992.

Comment date: April 23, 1992, in accordance with Standard Paragraph E at the end of this notice.

6. Hadson Power 13—Hopewell

[Docket No. QF88-85-003]

April 9, 1992.

On April 2, 1992, Hadson Power 13—Hopewlll, tendered for filing an amendment to its filing in this docket. No determination has been made that the submittal constitutes a complete filing.

The amendment provides additional information pertaining to the ownership structure of the facility.

Comment date: April 30, 1992, in accordance with Standard Paragraph E at the end of this notice.

7. Westmoreland—Hadson Partners

[Docket No. QF90-147-002]

April 9, 1992.

On April 2, 1992, Westmoreland—Hadson Partners, tendered for filing an amendment to its filing in this docket. No determination has been made that the submittal constitutes a complete filing.

The amendment provides additional information pertaining to the ownership structure of the facility.

Comment date: April 30, 1992, in accordance with Standard Paragraph E at the end of this notice.

8. Selkirk Cogen Partners, L.P.

[Docket No. QF89-274-003]

April 9, 1992.

On April 3, 1992, Selkirk Cogen Partners, L.P., tendered for filing an amendment to its filing in this docket. No determination has been made that the submittal constitutes a complete filing.

The amendment provides additional information pertaining to ownership structure, additional technical information including revised calculations for operating and efficiency values, and detailed information regarding uses of steam at the facility.

Comment date: April 30, 1992, in accordance with Standard Paragraph E at the end of this notice.

9. New England Power Co.

[Docket No. ER92-286-000]

April 10, 1992.

Take notice that on April 3, 1992, New England Power Service filed on behalf of New England Power Company material supplementing its earlier filing and request for waive of notice in this docket.

Comment date: April 24, 1992, in accordance with Standard Paragraph E at the end of this notice.

10. Florida Power Corp.

[Docket No. ER92-436-000]

April 10, 1992.

Take notice that Florida Power Corporation (Florida Power), on April 6, 1992, tendered for filing a wholesale rate increase in its full requirements, partial requirements and transmission rates. The amount of the rate increase is $18.1 million or 14.1% on a 1992 calendar-year basis. Florida Power requests that the increase be permitted to become effective on June 5, 1992, and that it be suspended until November 1, 1992. Florida Power states that it has served copies of its filing on the affected customers and the Florida Public Service Commission.

Comment date: April 24, 1992, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protect said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-9022 Filed 4-17-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP92-440-000, et al.]

United Gas Pipe Line Co., et al., Natural Gas Certificate Filings

April 9, 1992.

Take notice that the following filings have been made with the Commission:

1. United Gas Pipe Line Co.

[Docket No. CP92-440-000]

Take notice that on April 2, 1992, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP92-440-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain facilities by sale to OkTex Pipeline Company (OkTex), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated that United proposes to abandon in place approximately 8.07 miles of 20-inch pipeline, one 12-inch and one 16-inch orifice meter tube, a regulating station and appurtenances, such facilities known as the Oklahoma-Texas Line, which extend from Beckham County, Oklahoma to Wheeler County, Texas. It is explained that the Oklahoma-Texas Line was originally installed in 1982 and connects the facilities of ONG Western, Inc., with facilities owned by Red River Pipe Line Company. It is further explained that United utilizes the line solely for interruptible section 311 transportation.

It is stated that OkTex is acquiring the Oklahoma-Texas Line by Special Warranty Deed and Bill of Sale. It is further stated that OkTex's ownership of the line is contingent upon the issuance of an order as requested herein.

United States that the requested abandonment by sale to OkTex will result in lower system operating costs for United, benefiting both United and its customers. In addition, it is stated that since the abandonment involves facilities being left in place for use by OkTex, such abandonment of facilities

by United will have no effect on the environment.

Comment date: April 30, 1992, in accordance with Standard Paragraph F at the end of this notice.

2. Transcontinental Gas Pipe Line Corp.

[Docket No. CP92–438–000]

On March 31, 1992, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP92–438–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the transportation service it currently renders to United Gas Pipe Line Company (United), under Rate Schedule X–162, and requests that the abandonment be made effective retroactively to February 29, 1992, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Specifically, Transco proposes to abandon up to dekatherm equivalent of 196,640 mcf per day of natural gas for United. Transco states that the two parties have agreed mutually to terminate the firm transportation service currently rendered, as United no longer requires the service. Also, Transco avers that United supports the application filed herein and that the grant of the abandonment requested herein would resolve an ongoing complaint pending before the Commission in Docket No. RP90–8–008.

There are no facilities proposed to be abandoned in conjunction with this service.

Comment date: April 30, 1992, in accordance with Standard Paragraph F at the end of the notice.

3. OkTex Pipeline Co.

[Docket No. CP92–439–000]

Take notice that on April 2, 1992, OkTex Pipeline Company (OkTex), 100 West Fifth Street, P.O. Box 871, Tulsa, Oklahoma 74102, filed in Docket No. CP92–439–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition of certain pipeline facilities to be abandoned by United Gas Pipe Line Company (United) and transferred to OkTex, and for a blanket certificate of public convenience and necessity authorizing OkTex to engage in any of the activities specified in subpart F of part 157 of the Commission's Regulations, as may be amended from time to time, all as more fully set forth in the application on file with the Commission and open to public inspection.

OkTex requests authorization to acquire from United 8.07 miles of 20-inch pipeline one 12-inch and one 16-inch orifice meter tube, a regulating station and appurtenances, such facilities known as the Oklahoma-Texas Line, which extend from Beckham County, Oklahoma to Wheeler County, Texas. It is stated that after abandonment by United and upon acquisition of the facilities by OkTex the facilities will become part of the general interstate system of OkTex.

OkTex states that it will provide nondiscriminatory transportation service in accordance with Order Nos. 436/500. OkTex further states that upon acquisition of the facilities, it will provide firm and interruptible transportation service under its existing FERC Gas Tariff, Rate Schedules FTS and ITS, respectively.

OkTex states that it has entered into a contract with Amoco Production Company and Pan American Gas Company to acquire Amoco's right to acquire the subject interstate facilities. OkTex further states that upon approval of United's abandonment and OkTex's acquisition, OkTex will pay Amoco $750,000 for the right to acquire the pipeline from United. It is stated that OkTex will then exercise its right to acquire the pipeline and close on the Purchase Agreement with United, thereby accepting transfer of such facilities from United. In addition, at closing OkTex proposes to include the $750,000 purchase price for the facilities in its rate base, of which OkTex requests approval of such rate treatment.

In addition, OkTex requests authorization to obtain a blanket certificate to engage in any activities specified in Subpart F of Part 157 of the Commission's Regulations, as may be amended from time to time. OkTex states that approval of a blanket certificate will provide OkTex with greater flexibility and allow it to operate more efficiently.

Comment date: April 30, 1992, in accordance with Standard Paragraph F at the end of this notice.

4. Willison Basin Interstate Pipeline Co.

[Docket No. CP92–443–000]

Take notice that on April 3, 1992, Williston Basin Interstate Pipeline Company (Williston Basin), 200 North Third Street, suite 300, Bismarck, North Dakota 58501, filed in Docket No. CP92–443–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate one meter station and appurtenant facilities under Williston Basin's blanket certificate issued in Docket Nos. CP82–487–000, *et al.*, 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.

Williston Basin asserts that is currently providing natural gas service to Montana-Dakota Utilities Co. (Montana-Dakota), a local distribution company, for ultimate consumption by 47 Montana-Dakota end-use customers, utilizing an existing tap located on pipeline right-of-way in Carbon County, Montana. Williston Basin states that as part of an ongoing program to create more distinct delivery points to Montana-Dakota, it proposes to install a master (custody transfer) meter in order to measure the amount of total natural gas sold to Montana-Dakota for use by its customers instead of relying on individual Montana-Dakota customer meter readings.

Williston Basin estimates the cost of the proposed facilities to be $2,200. Williston Basin states that the installation of the proposed facilities will have no effect on its peak day or annual requirements. In addition, Williston Basin states that the volumes to be delivered are within the certificated sales entitlement of Montana-Dakota.

Comment date: May 26, 1992, 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 within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 92–9023 Filed 4–17–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–204–004]

East Tennessee Natural Gas; Changes in FERC Gas Tariff

April 14, 1992.

Take notice that East Tennessee Natural Gas Company (East Tennessee) on March 31, 1992, tendered for filing the certain revised tariff sheets to First Revised Volume No. 1 and Original Volume No. 1–A to its FERC Gas Tariff.

East Tennessee states that in its March 17 order, the Commission directed East Tennessee to revise its Docket No. RP91–204 motion rates effective February 1, 1992 to reflect the elimination of the costs associated with contract storage service purchased from Tennessee Gas Pipeline Company under its Rate Schedule SS. East Tennessee also states that the Commission directed East Tennessee to correct certain typographical errors on its Second Revised Sheet No. 97 included in the filing. East Tennessee asserts that the changes have been made effective February 1, 1992.

East Tennessee states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before April 21, 1992. 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. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92–9074 Filed 4–17–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM92–4–23–000]

Eastern Shore Natural Gas Company; Proposed Changes in FERC Gas Tariff

April 14, 1992.

Take notice that Eastern Shore Natural Gas Company (ESNG) tendered for filing on April 10, 1992 a revised tariff sheet included in appendix A attached to the filing, with a proposed effective date of May 1, 1992.

ESNG states that the purpose of the instant filing is to revise the billing shown on Third Revised Sheet No. 6B to comply with the provisions of Ordering Paragraph (B) to the Commission's August 26, 1988 order in ESNG's Docket No. RP88–226–000. The referenced order requires ESNG to file revised billing amounts to "track" any modifications to Transcontinental Gas Pipe Line Corporation's (Transco) take-or-pay charges ordered by the Commission. Transco filed on April 1, 1992 a recalculation of its PSP charges for their Fifth Annual Recovery Period (Year 5) commencing May 1, 1992. ESNG states that the impact on ESNG is a decrease of $3,300 per month (i.e. from $39,252 to $35,952) in the amount of fixed monthly take-or-pay charges it will incur from Transco as of May 1, 1992.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with 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 April 21, 1992. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 91–9073 Filed 4–11–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–210–000]

Tennessee Gas Pipeline Co.; Filing

April 14, 1992.

Take notice on March 31, 1992, Tennessee Gas Pipeline Company (Tennessee) tendered for filing the following revised tariff sheets in Third Revised Volume No. 1 of its FERC Gas Tariff to be effective on April 1, 1992:

Second Revised Sheet No. 132
Second Revised Sheet No. 141
Third Revised Sheet No. 230
Third Revised Sheet No. 231
Second Revised Sheet No. 232
Second Revised Sheet No. 233
First Revised Sheet No. 233A
Original Sheet No. 233B
Original Sheet No. 233C
Third Revised Sheet No. 404
Third Revised Sheet No. 406
Third Revised Sheet No. 407
Third Revised Sheet No. 408
Third Revised Sheet No. 412
Third Revised Sheet No. 414
Third Revised Sheet No. 415

Tennessee states that this filing is being made to comply with the Commission's order dated March 4, 1992. Tennessee states that the tariff sheets have been amended to reincorporate the provisions to cash-out imbalances on a monthly basis and to impose daily imbalance penalties upon the occurrence of certain specified conditions. Tennessee has requested authority to waive the collection or payment of the penalty portion of the monthly cash-out provisions for a 4-month period, such that all imbalances would be cashed-out at the 0–5% tolerance level during this 4-month period. Tennessee has stated that this will permit all parties to gain experience under the new system prior to the implementation of penalties.

Tennessee states that copies of its filing are available for inspection at its principal place of business in the Tenneco Building, Houston, Texas, and have been mailed to all affected customers.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before April 21, 1992. 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. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-9071 Filed 4-17-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-11-29-000]

Transcontinental Gas Pipe Line Corporation; Proposed Changes in FERC Gas Tariff

April 14, 1992.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on April 10, 1992 certain revised tariff sheets to Third Revised Volume No. 1 of its FERC Gas Tariff included in appendix A attached to the filing, with a proposed effective date of April 1, 1992.

Transco states the purpose of the filing is to track rate changes attributable to (1) 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 and (2) a change in Transco's fuel retention percentage under Rate Schedule FT-NT, which fuel retention percentage affects the resulting firm transportation commodity rate under such rate schedule. Transco states that the tracking filing is being made pursuant to Section 5 of Transco's Rate Schedule SS-1 and Section 4 of Transco's Rate Schedule FT-NT.

Transco states that included in Appendices B and C attached to the filing are explanations and detailed computations regarding the proposed tracking changes under Rate Schedules SS-1 and FT-NT.

Transco states that copies of the filing are being mailed to each of its SS-1 and FT-NT 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 April 21, 1992. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-9072 Filed 4-17-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 91-120-NG]

Coenergy Ventures, Inc.; Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting blanket authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Coenergy Ventures, Inc. blanket authorization to import a total of 72 Bcf of Canadian natural gas over a two-year term beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 14, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-9099 Filed 4-17-92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 92-08-NG]

National Gas Resources Limited Partnership; Order Granting Blanket Authorization to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting blanket authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting National Gas Resources Limited Partnership (NGR) blanket authorization to import a total of 73 Bcf of Canadian natural gas over a two-year term beginning on the date of the first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 14, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-9100 Filed 4-17-92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 91-118-NG]

Phillips Gas Marketing Co.; Order Granting Blanket Authorization To Export Natural Gas To Mexico

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting blanket authorization to export natural gas to Mexico.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Phillips Gas Marketing Company blanket authorization to export a total of 100 Bcf of U.S. natural gas to Mexico over a two-year term beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 14, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-9101 Filed 4-17-92; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4124-9]

Renewal of the Policy Dialogue Committee on Mining Wastes

AGENCY: Environmental Protection Agency.

ACTION: Correction to notice renewing the Policy Dialogue Committee on Mining Wastes Federal Advisory Committee.

SUMMARY: On April 10, 1992 at (57 FR 12498), we published a notice on the renewal of the Mining Waste Policy Dialogue Committee. The Committee was formed in March, 1991 to provide a forum to refine and further develop issues related to managing mining waste and to facilitate the exchange of ideas and information among the interested parties. The Charter has been renewed through March 30, 1993, but our April 10, 1992 notice incorrectly stated the renewal date as March 30, 1992. We apologize for any inconvenience this typographical error may have caused.

FOR FURTHER INFORMATION CONTACT: Persons needing further information on substantive aspects of the mining waste porgram should call Steve Hoffman, Office of Solid Waste, U.S. EPA, (703) 308-8413. Summaries of previous meetings will be made available upon written request to Patricia Whiting, Office of Solid Waste, (OS-323W), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Persons needing further information on administrative matters such as committee arrangements or procedures should contact Deborah Dalton, EPA Consensus and Dispute Resolution Program, (202) 260-5495 or the Committee's facilitator, John Ehrman, The Keystone Center, (303) 468-5822.

Dated: April 14, 1992.

Chris Kirtz,

Director, Consensus and Dispute Resolution Program, Office of Policy, Planning and Evaluation.

[FR Doc. 92-9091 Filed 4-17-92; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Coastal Barrier Improvement Act; Property Availability: Comanche Trail Tract, Travis County, TX

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as the "Comanche Trail Tract" located near Austin, Texas is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written Notices of Serious Interest to purchase or effect other transfer of the property may be mailed or faxed to the Federal Deposit Insurance Corporation until July 20, 1992.

ADDRESSES: Detailed descriptions of the property can be obtained by contacting the following person: Philip Bible, AMRESCO Management, Inc., 1201 Main Street, 11th Floor, Dallas, Texas 75202, Telephone: (214) 508-4396, Facsimile (214) 508-7291.

SUPPLEMENTARY INFORMATION: This 380 acre tract is located in Northwest Travis County, Texas at the intersection of FM1020 and Comanche Trail. The property has frontage along FM 620, both sides of Comanche Trail and frontage along Lake Travis. It is undeveloped land in a primarily residential area. It is suspected of containing habitat for endangered species, including Black Capped Vireo, Golden Cheek Warbler and Tooth Cave Beetle.

Written notice of serious interest to purchase the property must be received on or before July 20, 1992 by Philip Bible, at the above address. Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal Government,
2. Agencies or entitites of state or local government, and
3. "Qualified organizations" pursuant to section 170(h) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(s)).

Form of Notice

Notices of serious interest should be in the following form: Notice of Serious Interest re: Comanche Trail Tract, Travis County, Texas.

1. Name of eligible entity.
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.

Dated: April 15, 1992.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 92-9118 Filed 4-17-92; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89-777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended: Odessa Cruise German Shipmanagment Ltd. (d/b/a Transocean Cruise Line), Odessa Cruise Chartering Company and Odessa Cruise MV Columbus Caravelle Ltd., c/o Odessa America Cruise Company, 250 Old Country Road, Mineola, NY 11501. Vessel: Columbus Caravelle.

Dated: April 14, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92-9032 Filed 4-17-92; 8:45 am]

BILLING CODE 6730-01-M

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:

Odessa Cruise German Shipmanagement Ltd. (d/b/a Transocean Cruise Line), c/o

Odessa America Cruise Company, 250 Old Country Road, Mineola, NY 11501, Vessel: Columbus Caravelle.

Dated: April 14, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92-9031 Filed 4-17-92; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 92-15]

Transportation Services, Inc. as Agent for Empresa Naviera Santa, S.A. v. Tropicana Shipping Co., a/k/a La Tropicana Shipping Co., Inc.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Transportation Services, Inc. as agent for Empresa Naviera Santa, S.A. ("Complainant") against Tropicana Shipping Co., a/k/a La Tropicana Shipping Co., Inc. ("Respondent") was served April 14, 1992. 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 and refusing to pay ocean freight and other charges lawfully assessed pursuant to the applicable tariff or service contracts for one shipment of a 1984 Chevrolet automobile from Elizabeth, New Jersey to Callao, Peru in February 1991.

This proceeding has been assigned to Administrative Law Judge Frederick K. Dolan ("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 April 15, 1993, and the final decision of the Commission shall be issued by August 16, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 92-9030 Filed 4-17-92; 8:45 am]

BILLING CODE 6736-01-M

FEDERAL RESERVE SYSTEM

Concord EFS, Inc.; Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 12, 1992.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Concord EFS, Inc., Memphis, Tennessee; to engage *de novo* through its subsidiary, Concord Computing Corporation, Elk Grove Village, Illinois, in providing check authorization and collection services pursuant to § 225.25(b)(22) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 14, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-9046 Filed 4-17-92; 8:45 am]

BILLING CODE 6210-01-F

Credit Populaire D'Algerie, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 12, 1992.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. Credit Populaire D'Algerie, Algiers, Algeria; to become a bank holding company by acquiring 44.06 percent of the voting shares of UBAF Arab American Bank, New York, New York, a *de novo* bank.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. City Holding Company, Charleston, West Virginia; to acquire 100 percent of the voting shares of Blue Ridge Bank, Inc., Martinsburg, West Virginia.

2. Southern National Corporation, Lumberton, North Carolina; to acquire 100 percent of the voting shares of Southern Savings Bank of Elkin, Inc., SSB, Elkin, North Carolina, a *de novo* bank.

3. Southern National Corporation, Lumberton, North Carolina; to acquire 100 percent of the voting shares of Southern Savings Bank of Valdese, Inc., SSB, Valdese, North Carolina, a *de novo* bank.

C. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Mibank Corporation, Ypsilanti, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Ypsilanti, Ypsilanti, Michigan, a *de novo* bank.

D. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Old National Bancorp, Evansville, Indiana; to merge with Palmer Bancorp, Inc., Danville, Illinois, and thereby indirectly acquire Palmer-American National Bank of Danville, Danville, Illinois, and The Citizens State Bank, Williamsport, Indiana.

E. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. The Merchants Holding Company, Winona, Minnesota; to acquire 32.24 percent of the voting shares of BRAD, Inc., Black River Falls, and thereby indirectly acquire Bank of Melrose, Melrose, Wisconsin.

2. Taylor Bancshares, Inc., North Mankato, Minnesota; to acquire 100 percent of the voting shares of State Bank & Trust Company of New Ulm, New Ulm, Minnesota.

F. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Blythedale Bancshares, Inc., Blythedale, Missouri; to acquire an additional 25.8 percent of the voting shares of Citizens Bank, Blythedale, Missouri, for a total of 58.6 percent.

G. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. H.M.S. Holdings, Inc., San Antonio, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Castle Hills National Bank, San Antonio, Texas.

2. Lost Pines Bancshares, Inc., Smithville, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Lost Pines Bancshares-Delaware, Inc., Wilmington, Delaware. In connection with this application, Lost Pines Bancshares-Delaware, Inc. has applied to become a bank holding company by acquiring 100 percent of the voting shares of Lost Pines National Bank, Smithville, Texas.

3. Roscoe Financial Corporation, Roscoe, Texas; to acquire 75.1 percent of the voting shares of The Roscoe State Bank, Roscoe, Texas.

Board of Governors of the Federal Reserve System, April 14, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-9047 Filed 4-17-92; 8:45 am]

BILLING CODE 6210-01-F

First Interstate Overseas Investment, Inc.; Corporation to do Business Under Section 25(a) of the Federal Reserve Act

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"), The Edge Corporation operates as a subsidiary of the applicant. The factors that are to be considered in acting on the application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank listed for that notice. 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, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing. Any person wishing to comment on the application should submit views in writing to be received not later than May 12, 1992.

A. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary) Washington, DC 20551:

1. First Interstate Overseas Investment, Inc., Los Angeles, California; to extend corporate existance pursuant to section 25A of the Federal Reserve Act.

Board of Governors of the Federal Reserve System, April 14, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-9048 Filed 4-17-92; 8:45 am]

BILLING CODE 6210-01-F

Jack R. Matherly, 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 May 11, 1992.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Jack R. Matherly, Midwest City, Oklahoma; to acquire an additional 8.71 percent; Matherly Mechanical Contractors, Inc., Midwest City, Oklahoma, to acquire an additional 1.27 percent; Matherly Mechanical Profit Sharing Plan, to acquire an additional 0.07 percent; French E. Hickman, Jr., Midwest City, Oklahoma, to acquire an additional 18.90 percent; and French Hickman, D.D.S., Orthodontics, Inc. Profit Sharing Plan to acquire 8.78 percent of the voting shares of Midwest National Bancshares, Inc., Midwest City, Oklahoma, and thereby indirectly acquire Midwest National Bank, Midwest City, Oklahoma.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Pat S. Bolin, Dallas, Texas; to acquire up to an additional 29.04 percent of the voting shares for a total of 48.85 percent; D. Phil Bolin, Wichita Falls, Texas, to acquire up to 14.52 percent for a total of 26.31 percent; Dan H. Bolin, Wichita Falls, Texas, to acquire up to 7.26 percent for a total of 11.78 percent; and Warren T. Ayres, Wichita Falls, Texas, to acquire up to 7.26 percent for a total of 12.41 percent of the voting shares of Fidelity Resources Company, University Park, Texas, and thereby indirectly acquire Fidelity Bank, N.A., Dallas, Texas.

2. Curtin D. Logan, Temple, Texas; as trustee for Thomas Cue Baird 1992 Trust, David Wayne Baird 1992 Trust, and Byron Douglas Baird 1992 Trust, all of Temple Texas to acquire 33.84 percent of the voting shares of Peoples Bancshares, Inc., Belton, Texas, and thereby indirectly acquire Peoples National Bank, Belton, Texas.

Board of Governors of the Federal Reserve System, April 14, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-9049 Filed 4-17-92; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Update of the Clinical Practice Guideline on Acute Pain Management: Operative or Medical Procedures and Trauma

The Agency for Health Care Policy and Research (AHCPR) announces that it is inviting nominations of qualified individuals for a panel of experts and health care consumers to update the AHCPR-sponsored clinical practice guideline for Acute Pain Management: Operative or Medical Procedures and Trauma, which was released on March 5, 1992.

Background

The Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101-239), enacted on December 19, 1989, added a new title IX to the Public Health Service Act (the Act) (42 U.S.C. 299-299c-6), which established the Agency for Health Care Policy and Research to enhance the quality, appropriateness, and effectiveness of health care services, and access to such services.

Section 911 of the Act (42 U.S.C. 299b) established, within AHCPR, the Office of the Forum for Quality and Effectiveness in Health Care (the forum). Through this office, AHCPR is arranging for the development and periodic updating of clinically relevant guidelines that may be used by physicians, educators, other health care practitioners, and consumers to assist in determining how diseases, disorders, and other health conditions can most effectively and appropriately be prevented, diagnosed, treated, and managed clinically.

Section 912 of the Act (42 U.S.C 299b-1(d)) provides for the development of initial guidelines, standards, performance measures, and review criteria which:

1. Account for a significant portion of expenditures under the Medicare program, and have a significant variation in the frequency or the type of treatment provided; or

2. Otherwise meet the needs and priorities of the Medicare program.

Section 914 of the Act (42 U.S.C. 299b-3(a)(2)) identifies factors to be considered in establishing priorities for guidelines, including the extent to which the proposed guidelines would:

1. Improve methods of prevention, diagnosis, treatment and clinical management, and thereby benefit a significant number of individuals;

2. Reduce clinically significant variations among clinicians in the particular services and procedures utilized in making diagnoses and providing treatments; and

3. Reduce clinically significant variations in the outcomes of health care services and procedures.

The following topics were selected in 1990 for guideline development:

1. Management of Functional Impairment Due to Cataract in the Adult.

2. Diagnosis and Treatment of Benign Prostatic Hyperplasia.

3. Urinary Incontinence in Adults.

4. Prediction, Prevention, and Early Intervention of Pressure Ulcers.

5. Sickle Cell Disease.

6. Acute Pain Management: Operative or Medical Procedures and Trauma.

7. Diagnosis and Treatment of Depressed Outpatients in Primary Care Settings.

In 1991, the following topics were selected for guideline development by panels of experts and consumer representatives.

1. Management of Cancer-Related Pain.

2. Treatment of Stage II and Greater Pressure Ulcers.

3. HIV Positive Asymptomatic Patient: Evaluation and Early Intervention.

4. Low Back Problems.

5. Development of Quality Determinants of Mammography.

6. Screening for Alzheimer's and Related Dementias.

Also in 1991, three topics were selected for guideline development by contractors, with assistance from panels of experts and consumer representatives.

1. Diagnosis and Treatment of Otitis Media in Children.

2. Diagnosis and Treatment of Heart Failure Secondary to Coronary Vascular Disease.

3. Post Stroke Rehabilitation.

Responsibilities of the expert panels and contractors, assisted by contract panels, include determination of the scope of the guidelines, assessment of the available scientific evidence and clinical consensus, and conducting peer and pilot review of drafts of the guidelines.

Panel Nominations

This notice requests nominations of qualified individuals to serve on a panel to update the clinical practice guidelines on Acute Pain Management: Operative or Medical Procedures and Trauma.

The guideline update panel is expected to meet on a regularly scheduled basis once each year to assess new scientific and/or health policy developments in the field of acute pain management, and to modify the Acute Pain Management: Operative or Medical Procedures and Trauma clinical guideline, as necessary. Individuals selected for this panel will be asked to serve from 1 to 3 years. The first meeting would be scheduled for this summer. A yearly meeting would then take place each summer unless major scientific developments affecting the guideline necessitate an earlier or more frequent schedule.

The panel to update the Acute Pain Management: Operative or Medical Procedures and Trauma clinical guideline will consist of two co-chairs and approximately fifteen panel members. The co-chairs will provide leadership to the panel regarding methodology, literature review, panel deliberations, and formation of the final product.

The panel co-chairs are:

Daniel Carr, M.D., Director, Division of Pain Management, Department of Anesthesia, Massachusetts General Hospital, Specialities, Anesthesiology, Internal Medicine, and Endocrinology

Ada Jacox, R.N., Ph.D., F.A.A.N., Professor, School of Nursing, The Johns Hopkins University, Specialities: Health Policy and Nursing.

To assist in identifying members for the panel, AHCPR is requesting recommendations from interested individuals and organizations of nominees with substantial clinical or research experience in the management of acute pain. AHCPR is especially interested in receiving nominations of: (1) Persons with experience in developing clinical practice guidelines for pain management; (2) persons with relevant experience in basic and clinical research in pain management; (3) anesthesiologists, nurse anesthetists, nurses with experience in surgical nursing of adult and pediatric populations, surgeons, general practitioners, psychiatrists, psychologists, pharmacists, auxiliary health professionals and other individuals with relevant experience in the variety of clinical and technical skills needed in the management of

individuals with acute pain; (4) persons with expertise in the design and use of technology in the treatment of pain; (5) health care consumers who have had experience with acute pain associated with surgery, medical procedures, and/or trauma; and (6) medical ethicists.

Panel members will be selected from among the nominations received using criteria that include the following:

- Relevant training and clinical experience.
- Demonstrated interest in quality assurance and research on pain management.
- Commitment to the need to produce clinical guidelines.
- Broad public health view of the utility of relevant procedures and clinical services.
- Demonstrated capacity to respond to consumer concerns.
- No conflict of interest that would impair their impartial participation in the development of the clinical practice guidelines.

Nominations received will be submitted for review and consideration to the co-chairs, who is turn will recommend proposed panel members to AHCPR. Appointments of panel members will be made by AHCPR after review of proposed members' qualifications and the overall composition of the panel to ensure representation of members with an optimal range of experience and expertise.

Nominations must include a copy of the individual's curriculum vitae or résumé, plus a statement of the rationale for the specific nomination. To be considered, nominations must be received by May 22, 1992, at the following address: Office of the Forum for Quality and Effectiveness in Health Care, Agency for Health Care Policy and Research, 2101 East Jefferson Street, Suite 401, Rockville, MD 20852.

For Additional Information

Additional information on the guideline development process is contained in the AHCPR Fact Sheet, "AHCPR-Commissioned Clinical Practice Guidelines," dated January 1992. More detailed information on the guideline process and criteria for selecting panels is contained on the AHCPR Program Note, "Clinical Guideline Development," dated August 1990. These documents may be obtained from the AHCPR Publications Clearinghouse, P.O. Box 8457, Silver Spring, MD 20907, Call Toll-Free number: 1-800-358-9295; or by calling the Center for Research Dissemination and Liaison, Agency for Health Care Policy and Research, at (301) 227-8366.

For further information on the process for developing guidelines for acute pain management, contact Kathleen A. McCormick, Ph.D., R.N., Director, Office of the Forum for Quality and Effectiveness in Health Care, Agency for Health Care Policy and Research, at the address above.

Dated: April 13, 1992.

J. Jarrett Clinton,

Administrator.

[FR Doc. 92-8996 Filed 4-17-92; 8:45 am]

BILLING CODE 4160-90-M

Alcohol, Drug Abuse, and Mental Health

Mental Health Services Demonstration Grants; Child and Adolescent Service System Program (CASSP)

INSTITUTE: National Institute of Mental Health, HHS.

ACTION: Notice of request for applications.

Introduction

Under the authority of section 520 of the Public Health Service Act, the National Institute of Mental Health (NIMH) is soliciting grant applications for Child and Adolescent Service System Program (CASSP) demonstration projects for State and community service system development for children and adolescents with or at risk of, serious emotional or mental disorders and their families. In fiscal year 1992, there will be two types of CASSP grants, both of which are focused on the development of local-level service systems. They are: (1) Local System Strategy Development and (2) Statewide Local System Strategy Implementation.

Program Goals and Objectives

The goal of CASSP is to increase the quality and availability of services for children and adolescents with, or at risk of, serious emotional or mental disorders and their families. NIMH would accomplish this goal in large part through increasing knowledge about the effectiveness of different State and community strategies for the development of improved community-based systems of care for children and adolescents with, or at risk of, serious emotional or mental disorders. These systems of care emphasize comprehensive and individualized services, services provided within the least restrictive environment, full participation of families, cultural competence, and coordination among all child-serving agencies and programs. CASSP, through these service system demonstration grants, assists States and communities to:

- Develop leadership capacity and foster interagency coordination at State and local levels and plan for improvements in the system of care to meet the needs of children and adolescents with serious emotional or mental disorders and their families
- Carry out demonstrations which systematically examine and evaluate components of the strategy being used and assess the impact of system changes on the availability, accessibility, appropriateness and effectiveness of care
- Involve family members, members of culturally and ethnically diverse populations, and alternative community-based service providers who generally provide service to youth outside of the "system" in policy development and system assessment and planning activities in order to ensure that the service system that is developed meets the needs of the entire target population including those at risk of serious emotional or mental disorders

Both types of grants described in this announcement are designed to assist States and communities to achieve the following specific goals:

- Develop strategies to build effective comprehensive, coordinated, community-based systems of care in local communities throughout the State
- Implement strategies to develop local systems of care on a statewide basis, including the development of local infrastructure for systems of care and the development of strategies, including financing, for putting in place a range of community-based services
- Evalutate across multiple sites the effectiveness of the system building strategies in improving the availability and quality of systems of care for children and adolescents with serious emotional or mental disorders and their families

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. This RFA, Mental Health Services Demonstration Grants, Child and Adolescent Service System Program, is related to priority area 6. Mental Health and Mental Disorders. Specific subsections include: .3 "Reduce to less than 10 percent the prevalence of mental disorders among children and adolescents." and .14 "Increase to at least 75 percent the proportion of providers of primary care for children who include assessment of cognitive, emotional, and parent-child functioning,

with appropriate counseling, referral, and followup, in the clinical practices." Potential applicants may obtain a copy of Healthy People 2000 (Summary report: Stock No. 017–001–00474–0 or Healthy People 2000 (summary report: Stock No.017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone 202–783–3238).

Population Definition

The population of children and adolescents with, or at risk of, serious emotional or mental disorders, which includes major mental disorders, is defined as follows:

Age. Client eligibility is limited to those under 18 years of age. Exceptions can be made for those jurisdictions in which individuals, (1) are eligible for service as children up to age 21, (2) are ineligible for adult services, or (3) have entered the mental health service system before age 18, and the continued receipt of child and adolescent services is found to be the most appropriate alternatives. While transition services for these individuals between 18 and 21 are a recognized need, such individuals are not a target population.

Disability. Client eligibility should be defined on the basis of degree or level of functioning. The lack of ability to perform in the family, in school, and in the community is the basic issue which determines the need for CASSP services. States must define what level of disability is required for eligibility. This definition could also be based on a specified level of service needed or the substantial risk of needing that level of service.

Multi-agency Need. The level of disability defined by States should require multi-agency intervention. The children and adolescents for whom CASSP is necessary have service needs in two or more community agencies, such as mental health, substance abuse, health, education, juvenile justice, or social welfare.

Mental Illness. Client eligibility requires the presence of a mental disorder diagnosable under DSM–III–R (or other classification used by the State).

Duration. Disability must be present for at least 1 year or, on the basis of diagnosis, is expected to last more than 1 year.

The population of children and adolescents at risk of serious emotional or mental disorders is defined as follows:

Children and adolescents who, as a result of environmental and/or biological factors, have a high probability of becoming seriously emotionally disturbed as described above. Children and adolescents at risk of serious emotional or mental disorders include but are not limited to:

- Those who are homeless, either as part of a family unit or alone
- Those living with parents who are unable to provide adequate care and nurturance, including drug-addicted parents
- Those who have been victims of violence
- Those who abuse drugs
- Those who are HIV infected
- Those with a family history of psychiatric illness.

Special Instructions for Inclusion of Minorities and Women in Study Populations

For projects involving human subjects and human materials, ADAMHA requires applicants to include minorities and both genders in study populations. Racial/ethnic minority and gender differences in human subjects provide valid scientific and public health reasons for requiring that projects involving human subjects include appropriate minority and gender representation. If one gender and/or minorities are excluded or are inadquately represented in this research, a clear compelling rationale for exclusion or inadequate representation must be provided. ADAMHA will not make awards that do not comply with this policy.

For RFAs, if the required information is not contained within the application, the application will be returned.

Peer reviewers will address specifically whether the project plan in the application conforms to these policies. If there is limited representation, or absence of minority and gender representation, AND the justification for the selected study population is inadequate, reviewers will consider this as a weakness or deficiency in the study design and reflect this in the written review statements and in the assigned priority score.

CASSP Fiscal Year 1992 Emphasis

In fiscal year 1992, the CASSP program will emphasize the development, implementation, and evaluation of systems of care on the local level. Service demonstration grants will enable the development and evaluation of a variety of strategies for building systems of care on a statewide basis. This announcement provide opportunities for States at different stages of development. States at earlier stages of development may undertake necessary planning and strategy development activities; while States with well-defined strategic plans may proceed directly to implementation. NIMH is encouraging the evaluation of the effectiveness of different approaches at multiple sites through collaboration between academic institutions and State governments in CASSP grants.

Eligibility

Only mental health authorities in States and Territories that do not currently have a CASSP Service System Demonstration Grant, or are in the final year of a CASSP Service System Demonstration Grant, are eligible to apply for these grants. Applications will not be considered for funding unless they are clearly shown to be for totally new projects and are not extensions of current or previously funded projects. Each State and Territory may submit only one application and must designate which type of grant (Local System Strategy Development or Statewide Local System Strategy Implementation) it is applying for.

Only State mental health authorities, other State agencies in which the statewide responsibility for child mental health resides, or other State child services coordinating organizations as designated by the Governor are eligible to apply for CASSP grants. Applications from State child services coordinating organizations must be accompanied by a letter from the Governor making such a designation.

NIMH is limiting potential applicants for demonstrations under this announcement to State mental health authorities for three reasons. First, because multiple agencies and providers are generally involved in implementing these demonstration initiatives, centralized State assistance is needed to assure that sufficient resources will be allocated to the project and appropriate staff and organizations will be involved. The State mental health authorities are best qualified to undertake this coordination function, since they oversee a wide range of mental health service providers. Prior to NIMH demonstration efforts under section 504(f) of the PHS Act have shown the State mental health authorities to be effective in coordinating services.

Second, a related Federal initiative focused on the long-term mentally ill population and children and adolescents with serious emotional or mental disorders, authorized under P.L. 99–660, The State Comprehensive Mental Health Service Plan Act of 1987 and its subsequent amendments, requires State governments to involve consumers and

family members on Advisory Councils to assist in developing mental health plans. The projects supported through the grant will facilitate their involvement in the Public Law 99–660 planning process. Finally, if the family support services stimulated through these grants are to survive beyond the grant period, it is probable that the main source of funding will come from State mental health authorities. Based on previous program experience, involving States in the demonstration projects greatly increases the probability that they will provide continuation funding for the services.

Activities For Which Grant Support Is Available

There are two types of CASSP service system demonstration grants available in 1992:

I. Grants for Local System Strategy Development.
II. Grants for Statewide Local System Strategy Implementation

I. Grants for Local System Strategy Development

The primary purpose of this type of grant is State-level development and initial piloting of a local system-building strategy to:

- Develop strategies for creating community-based systems of care in local communities throughout the State.
- Begin to implement strategies for local system of care development
- Evaluate the effectiveness of system building strategies in improving the availability and quality of local systems of care.

This type of grant is aimed at States that need to *develop* a strategic plan for the development of local systems of care, to achieve consensus among child-serving agencies on the strategic plan, and to achieve the basic State-level system changes necessary to lay the groundwork for local system development. The strategies developed through this grant should build upon and be consistent with efforts accomplished through prior CASSP grants or through the planning process required by Public Law 99–660. These grants will be awarded for a period of up to three (3) years.

Activities

The major activities under this type of grant will occur at the State level and will focus on the development of strategies for local system development a well as achieving State-level system changes that are necessary to lay the groundwork for building local systems of care Statewide. As the strategy development process proceeds, it is expected that activities for pilot implementation of strategies to develop local systems of care will be initiated. Suggested activities include, but are not limited to, the following:

1. The operation of a unit which acts as a focal point within the State mental health agency (or that State agency responsible for child and adolescent mental health programs) for initiating and coordinating State and local system building activities.

2. The development and operation of State-level interagency structures and mechanisms to ensure the collaboration of all child-serving agencies and systems in the planning and development of a community-based system of care of children and families, including substance abuse, health, education, juvenile justice, social welfare, and youth service programs.

3. The development and refinement of strategies for the Statewide development of local systems of care which may include but are not limited to the following elements:

- Strategies to make necessary changes at the State-level in order to lay the groundwork for local system development such as legislative, regulatory, administrative, or fiscal changes.
- Strategies to identify and create financing mechanisms to support the development of local systems of care on a statewide basis including innovative financing strategies involving blended funding, flexible funding, etc.
- Strategies to develop local infrastructure for systems of care, including local interagency coordinating entities, regional or local coordinators for system development, lead agencies, etc.
- Strategies to develop a range of community-based services, with emphasis on less restrictive service options, along with financing mechanisms for these services.
- Strategies to implement State-level changes needed to overcome barriers to local system development.
- Strategies to address human resource development issues to ensure the availability of a trained work force for local systems of care.
- Strategies to create or enhance communication networks between State, regional and local levels.
- Strategies to promote parent involvement, parent support and parent advocacy.
- Strategies to promote cultural competence in the planning for and the provision of services to the target population.

4. The initial implementation of strategies, particularly those requiring State-level activities and system changes to support a local system of care. Implementation efforts should begin as soon as sufficient progress has been made in developing and reaching consensus on the strategies for local system building. Implementation activities may proceed concurrently with the strategy development process if appropriate.

5. The provision of technical assistance and training to support local system development. States must identify the technical assistance needs of a variety of organizations and agencies involved in developing systems of care for children and adolescents with or at risk of serious emotional or mental disorders and provide appropriate technical assistance and training. This includes development of expanded linkages with academic institutions within the State in order to increase the availability of mental health professionals trained to provide community-based services for this population and to expand in-service and continuing education opportunities for professionals and parents.

II. Grants for Statewide Local System Strategy Implementation

The primary purposes of this type of grant are:

- To implement strategies for local system of care development in multiple sites throughout the State.
- To evaluate the effectiveness of different system building strategies in improving systems of care.

States applying for this type of grant have substantially completed the planning and strategy development process through prior CASSP grants and through the planning process required by Pub. L. 99–660. This type of grant is aimed at States that have well-defined strategies for local system of care development and need to initiate or expand the process of implementing these strategies on a Statewide basis.

While statewide development of local systems of care is the ultimate goal, it may be unrealistic to expect complete implementation of comprehensive services systems in all localities within a 3-year period. In most States, system of care development will be an incremental process. However, to ensure statewide impact, activities proposed under this type of grant may not be concentrated in a single community or locality. States must design and test the comparable efficacy of various strategies for system building in multiple communities as steps toward statewide implementation of systems of care. A diversity of types of communities is

required of all grantees, with the exception of those States that currently have a well-disseminated local system building process and wish to use this grant to explore strategies for building systems in localities with special barriers, such as large cities.

Local System Building Activities

The major focus of this type of grant is on activities which will contribute to the development of local systems of care in all communities throughout the State. Suggested local system building activities may include, but are not limited to, the following:

1. The development of a local infrastructure for systems of care in multiple communities or Statewide. Activities to develop local infrastructure for systems of care include but are not limited to the following:

- Developing local interagency entities to plan, develop, and coordinate systems of care.
- Establishing regional or local coordinators for system development.
- Creating case management mechanisms.
- Creating case coordination/review mechanisms.
- Creating managed care program mechanisms.
- Creating structures to insure family and minority participation in system development.

2. The development of a range of community-based services, with emphasis on less restrictive service options, along with financing mechanisms for these services. Activities to develop local service capacity include but are not limited to the following:

- Developing specific service components by sequentially adding services on a statewide basis along with financing mechanisms to support these services
- Developing cost shifting and other financing mechanisms to support the development of services to fill current gaps
- Reallocation of resources to less restrictive, community-based service options.

3. The development of human resources for local systems of care, including a range of activities to ensure the availability of an appropriately trained workforce to provide community-based services to children and families. These activities may include efforts to train or retrain current staff as well as activities to affect preservice education.

4. The implementation of activities to promote parent involvement in all phases of the planning and delivery of services as well as to create increased opportunities for parent support and parent advocacy,

5. The implementation of activities to promote cultural sensitivity in the planning for and the provision of services to the target population.

6. The development of service delivery approaches to address specific concerns in a State including but not limited to services for special population such as homeless or runaway youth, early intervention services, transitional services for older adolescents, etc.

State Activities to Support Local System Building

The major activities under this type of grant will occur at the local level and will focus on implementing strategies for local system of care development throughout the State. For a statewide system building initiative to proceed, a consistent base of supportive State-level activity must occur concurrently. These activities may include but are not limited to the following:

1. The identification of a State unit whose responsibility will include the administration, support, evaluation, technical assistance, and oversight of the local system building process,

2. The ongoing support of State-level interagency structures and mechanisms to ensure the collaboration of all child-serving agencies in the continued implementation and oversight of the local system building process,

3. The ongoing implementation of necessary State-level system changes to support local system of care development including legislative, regulatory, administrative, and fiscal changes,

4. The ongoing implementation of strategies to identify and create financing mechanisms to support the development of local systems of care on a statewide basis including innovative financing strategies involving blended funding, etc.

5. The ongoing identification of barriers to local system building and implementation of strategies to address such barriers,

6. The creation or enhancement of communication networks between State, regional, and local levels,

7. The provision of technical assistance and training to support local system development. States must identify the technical assistance needs of a variety of organizations and agencies involved in developing systems of care for children and adolescents with or at risk of serious emotional or mental disorders and provide appropriate technical assistance and training. This assistance includes development of expanded linkages with academic institutions within the State in order to increase the availability of mental health professionals trained to provide community-based services for this population and to expand in-service and continuing education opportunities for professionals and parents.

Project Requirement [1]

All CASSP projects must include or reflect the following:

- A strategy for system of care development that will ultimately result in the development of local systems of care in every community throughout the State. The system development strategy must address both the infrastructure for systems of care and the development of increased service capacity.
- A clear relationship to State planning efforts for children and adolescents with serious emotional or mental disorders under the State Mental Health Planning Act, P.L. 99–660.
- Collaborative planning at State and local levels between mental health and other child service systems, such as education, child welfare, juvenile justice, health, substance abuse, etc.
- Broad-based participation in planning and decisionmaking at State and local levels by such groups as health and human service agencies; paraprofessionals; professionals; provider organizations (including mental health centers, human service agencies, and alternative youth service agencies); and citizen, family, children, and racial/ethnic minority groups concerned with human services.
- Flexibility of approach, so as to allow localities to develop systems in ways that reflect local needs and existing resources.
- Specific goals focusing on increasing the role of parents and the

[1] The intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR part 100, are applicable to this program. E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants (other than federally-recognized Indian tribal governments) should contact the State Single Point of Contact (SPOC) as early as possible and alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application kit. The SPOC should send any State process recommendations to Stephen J. Hudak (See below). The due date for State process recommendations is 60 days after the deadline date for receipt of applications. The National Institute of Mental Health does not guarantee to accommodate or explain for State process recommendations that are received after the 60-day cut-off date.

use of the family as a resource in both service planning and delivery.

• Assessment of the special needs of racial/ethnic minority children and youth, given the high percentage within the target population, and specific culturally competent strategies for meeting these needs.

• Adequate budgeting and provision for obtaining approval for travel related to the grant, including at least three out-of-State trips annually for the project director to attend national program meetings.

• Delineation of the anticipated outcomes and specification of a strategy to evaluate the outcomes of systems building efforts across multiple sites. Specification and implementation of a detailed evaluation methodology to assess the degree to which these approaches have been successful in achieving their goals and as such are worthy of replication in other areas of a State or at the State and national levels. Under the NIMH Public-Academic Liaison Initiative (PAL) grantees are encouraged to use academic institutions to aid in the execution of these evaluation activities.

Evaluation plans must be tied to the specific, measurable objectives proposed by each grantee. States should focus their evaluations on the effectiveness of their efforts in improving the availability and quality of local systems of care and, thereby, improving outcomes for children and their families. For example, evaluations could assess a variety of indicators of system improvements such as increased availability of specific community-based services, increased numbers of children and adolescents served, reductions in out-of-State and out-of-county placements, reductions in utilization of restrictive treatment settings, evidence of increased coordination among child-serving agencies, degree of family and minority group involvement in system development, family satisfaction with the availability, accessibility and/or appropriateness of services, etc. Cross site comparisons of different approaches in various communities are strongly encouraged.

Client Safeguards

The applicant must satisfactorily address issues regarding protection of confidentiality for clients (and their families), and provisions for informing potential clients (and their families) of the nature of the demonstration project and obtaining appropriate informed consent for their participation.

Application Procedures

All applications should use Form PHS-5161–1 (revised 3/89) to request support for State service system improvement activities described in this RFA. The number and title of the announcement, "Mental Health Services Demonstration Grants Child and Adolescent Service System Program (CASSP), MH–92–05," and the Catalog of Federal Domestic Assistance 93.125 should be typed in Item 10 on the face page of the application. The type of grant, CASSP Local System Strategy Development or CASSP Statewide Local System Strategy Implementation, should be entered in Item 11. Applications must be complete and contain all information needed for initial and Advisory Council review. No subsequent addenda will be accepted unless specifically requested by the scientific review administrator of the initial review group. No site visits will be made.

Application kits are available from: Grants Management Branch, National Institute of Mental Health, Parklawn Building, room 7C–15, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4414.

The signed original and two (2) permanent, legible copies of the completed application must be received (not postmarked) by the close of business July 10, 1992 at the latest. Applications should be sent to: Division of Research Grants, National Institutes of Health, Room 240, 5333 Westbard Avenue, Bethesda, Maryland 20892*.

Important: The mailing envelope (including that provided by an express carrier) must be clearly marked, "RFA MH 92–05." Failure to label the application could result in delayed processing such that it may not reach the review committee in time for review.

To facilitate the timely review of your application, it is also suggested that one additional copy of the application be sent directly to: Division of Extramural Activities, National Institute of Mental Health, 5600 Fishers Lane, room 9C–05, Rockville, Maryland 20857*.

Application Characteristics

Applications must be complete and contain all information needed for initial and Advisory Council review. No addenda will be accepted later unless specifically requested by the scientific review administrator of the initial review group. No site visits will be made.

*If express mail or overnight courier service delivery is used, the zip code is 20816.

*The mailing envelope (including that provided by an express carrier) should be clearly marked, "RFA MH 92–05."

The applicant must include a project abstract which should not exceed one-half page.

The narrative section must clearly describe the context for the proposed project, prior accomplishments of the State and/or local entities related to the goals of this announcement, problems in current services delivery to the target population, rationale for the selection of the proposed project, methods by which the project will be implemented and evaluated, and expected results.

The narrative should be written in a manner that is self-explanatory to objective, outside reviewers unfamiliar with prior related activities of the applicant. It should be as brief as possible, but may not exceed 25 pages. It should contain the necessary information for reviewers to understand the project. Appendices may be attached but should not be used to merely extend the narrative. Applications exceeding page limits will be returned. It is important that the relationship between the proposed project and ongoing State and/or local activities be clearly explained. It is also important that the activities that are specific to the proposed project be clearly identified.

To assure that sufficient information is included for technical merit review of the application, the narrative should include the following sections:

Organizational Context

• Organizational structure and role of the applying entity.

• Locus of responsibility for the target population within the State government and local government structure and clarification of the relationship between the levels of government.

• Definition of "local" to be used in the development or implementation of a statewide strategy for building local systems of care.

• Clarification of organizational relationships between the State/local mental health agency and other State/local level health and human service agencies as these relate to the proposed project.

• Description of the target population including the operational definition to be used for the proposed project, a summary of available data on the population (numbers, location, socioeconomic characteristics, racial/ethnic minority composition, etc.), and a discussion of available services and opportunities for the population.

Status of System of Care Development

• Description of the proposed philosophy or vision for a system of care

on which the activities of the grant are to be based.

• Summary of pertinent mental health or other legislation or regulations pertinent to system of care development in the State.

• Summary of recent and ongoing progress toward the development of systems of care achieved through CASSP projects to date and other efforts, including progress achieved at the State-level in preparing for system development as well as any progress achieved in implementing systems of care in local communities.

• Discussion of the gaps in local systems of care and priorities that have been established for local system development.

Project Approach

• Description of the proposed focus for the project activities with an explanation of the appropriateness of this choice based upon the status of system of care development in the State.

• Specification of the goals and specific measurable objectives for the proposed project and discussion of how these relate to the goals stated in this announcement.

• A plan of action for all the years of the entire project, which discusses how each activity related to the project will be approached and provides a rationale for the proposed implementation plan, justifying it in relation to the past accomplishments, needs, and problems as outlined in the narrative.

• A management plan for the first year that includes action steps, timetable, responsible persons, and specific major milestones.

Budget

• A detailed budget narrative should be supplied, relating first-year budget line items to specific projects within the proposal.

• The budget for *all* years covered by the application should be reflected in the appropriate place on the face page of the application.

• Projected budgets for each year *beyond* the first year should be supplied in Section E of "Budget Information" section of the application form.

Other Support

• "Other Support" refers to all current or pending support related to this application. Applicant organizations are reminded of the necessity to provide full and reliable information regarding "other support," i.e., all Federal and non-Federal active or pending support. Applicants should be cognizant that serious consequences could result if failure to provide complete and accurate information is construed as misleading to PHS and could therefore lead to delay in the processing of the application. In signing the face page of the application, the authorized representative of the applicant organization certifies that the application information is accurate and complete.

For your organization and key organizations that are collaborating with you in this proposed project, list all currently active support and any applications/proposals pending review or funding that relate to the project. If none, state "none."

For all active and pending support listed, also provide the following information.

(1) Source of support (including identifying number and title).
(2) Dates of entire project period.
(3) Annual direct costs supported/requested.
(4) Brief description of the project.
(5) Whether project overlaps, duplicates, or is being supplemented by the present application; delineate and justify the nature and extent of any programmatic and/or budgetary overlaps.

This information must be provided in a specially labeled appendix, "Resources/Other Support."

Staffing

• A discussion of project staffing for all key personnel and consultants, whether paid by the project or committed to it, including their titles, major functions, and to whom they report; organization charts for the project; documentation to assure that staff loaned to the project from other units or agencies will be available for the amount of time required; resumes (if available) and position descriptions for all key professional staff to be paid by the grant or to have major leadership roles in the project. Where a specific individual cannot be identified, selection criteria for the position should be indicated.

• Discussion of the extent to which proposed staff have racial/ethnic, majority/minority representation proportional to the State/community population, and what steps will be taken toward achieving proportional representation.

Evaluation Plan

• Discussion of the methodological approach to be used to evaluate the effectiveness of the proposed strategies for developing local systems of care for children and adolescents with, or at risk of, serious emotional or mental disorders.

• Clear presentation of expected outcomes, an a methodology to measure achievement of those outcomes.

• Discussion of any proposed linkages with academic institutions to aid in the evaluation and justification of the choice of the group or individual proposed to evaluate the project.

Period of Support

Applicants may request a maximum project period of up to 3 years of support. Annual awards will be made subject to continued availability of funds and progress achieved.

Availability of Funds

It is estimated that approximately $1.4 million will be available in FY 1992 for up to a total of ten projects of either type of an award. The expected average amount of an award is approximately $135,000.

Terms and conditions of support

Grant funds may be used for expenses clearly related and necessary to carry out the described project, including both direct and indirect costs which can be specifically identified with the project. Applicants must be aware that not more than 10 percent of an award may be expended for administrative expenses.

Grant funds may be used for the costs of planning, developing, and implementing activities to support attainment of the project objectives. Applicants are expected to determine the costs of the project for the proposed project period. Grant funds are to be additive, not substitutive; they are not to be used to replace existing resources. Costs of delivery of direct client services are not allowed under the provision of these grants, with exception of grants in which some temporary funding of direct services (such as start-up or seed funding) is demonstrated to be crucial to the development of local systems of care.

Allowable items of expenditure for which grant support may be requested include:

• Salaries, wages, and fringe benefits of professional and other supporting staff engaged on the project activities (Grant support for salaries and wages of staff who are engaged less than full-time in the grant-supported activities, must be commensurate with the effort under the grant.)

• Travel directly related to carrying out activities under the approved project.

• Supplies, communications, and rental of space directly related to approved project activities.

• Contracts to local government, not-for-profit agencies and organizations, public institutions, and consultants necessary for performance of activities under the approved project.

• Other such items necessary to support project activities, as approved by NIMH.

Applicants must include the following assurance in their application, "not more than 10 percent of the grant will be expended for administrative expenses."

Grants must be administered in accordance with the PHS Grants Policy Statement (Rev. October, 1990).

Federal regulations at title 45 CFR parts 74 and 92, generic requirements concerning the administration of grants, are applicable to these awards.

Review Process

Applicants will be reviewed in accordance with PHS review procedures by an initial review group (IRG) consisting primarily of non-Federal programmatic and technical experts. Notification of the IRG review outcomes will be sent to the applicant after the initial review. Applications will receive a second-level review by the National Advisory Mental Health Council whose review may be based on policy considerations as well as technical merit. Only applications recommended by Council may be considered for funding.

Review Criteria

Each grant application is evaluated on its own merits against the review criteria listed below.

Review Criteria for All Grant Applications

• Fulfillment of the project requirements for the particular type of application as stated in the text of this announcement.

• Clarity and feasibility of the proposed system building strategy and the potential of the plan and strategy for improving local service systems for children and adolescents with, or at risk of, serious emotional or mental disorders.

• Evidence of the State's readiness and commitment to improve community-based services for the target population, as evidenced by such factors as:

—Documentation of prior State and local progress in developing systems of care

—Consistency of the proposed system-building approach with national CASSP goals and with the CASSP system of care philosophy

—Consistency of proposed activities with ongoing State comprehensive mental health planning and human resource development activities

—Commitment of State mental health and/or other health and human service resources to activities that support the goals of the proposed project, as demonstrated by the level of interagency collaboration in the development of the application and documentation of interagency commitment to the goals and objectives of the project

• Projected role of families of children and adolescents with, or at risk of, serious emotional or mental disorders in the system of care development process at State and local levels

• Emphasis on the special needs of racial/ethnic minority children and families and the quality of strategies for increasing the cultural competence of local systems of care

• Clarity and measurability of the goals and objectives of the project

• Clarity, relevance, and feasibility of the evaluation plan to assess attainment of those goals

• Capability and experience of project director, consultants, and other key staff proposed for the project and adequacy of staffing plan and evidence of efforts to recruit minority staff.

• Evidence of activities directed at developing continued funding support to continue to local system building process after the grant is terminated.

• Appropriateness of budget.

Receipt and Review Schedule

Receipt of applications	Initial review	Council review	Earliest start date
July 10, 1992.	July/ August.	September	September 30, 1992.

Applications received after the receipt date above will not be accepted. Late applications will be returned to the applicant without review.

Award Criteria

Applications recommended for approval by the National Advisory Mental Health Council will be considered for funding on the basis of:

• Quality of proposed project as determined by the review process.

• Geographical distribution.

• Availability of funds.

• Rural distribution (15 percent of appropriated funds set aside for projects conducted in rural areas as specified in Section 520 of the PHS Act).

Contacts for Additional Information

Program Issues

Judith Katz-Leavy, Child and Family Support Branch, Division of Services and Applied Research, National Institute of Mental Health, 5600 Fishers Lane, room 11C–09, Rockville, Maryland 20857, (301) 443–1333.

Grants management issues

Stephen J. Hudak, Chief, Grants Management Section, National Institute of Mental Health, 5600 Fishers Lane, room 7C–23, Rockville, Maryland 20857, (301) 443–4456.

The reporting requirements contained in this Announcement are covered under the Paperwork Reduction Act of 1908, Public Law 96–511, OMB approval number 0937–0189.

(The Catalog of Federal Domestic Assistance number for this program is 93.125)

Joseph R. Leone,

Associate Administrator for Management, Alcohol, Drug Abuse, and Mental Health Administration.

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Alcohol, Drug Abuse, and Mental Health Administration

Capacity Expansion Program

OFFICE: Office for Treatment Improvement, ADAMHA, HHS.

ACTION: Request for applications.

PURPOSE: The Office for Treatment Improvement (OTI), in its role of implementing demand reduction programs under the Office of National Drug Control Policy (ONDCP) National Drug Control Strategy, is soliciting State applications for the creation of new addiction treatment capacity in high-incidence jurisidictions of greatest need.

PROGRAM AUTHORITY: OTI is implementing this program under authority of section 509G(b) of the Public Health Service Act (as added by Pub. L. 100–690), utilizing funds made available through the Appropriation for Treasury, Postal Service and General Government Appropriations (Pub. L. 102–141). This appropriation, signed into law on October 28, 1991, provided $9 million in FY 1992 resources derived from the ONDCP Special Forfeiture Fund to be used for substance abuse treatment "capacity expansion."

Background

Capacity Expansion Program Proposed for FY 1993 Budget

The President, in the context of the Administration's legislative and budgetary proposals, has recommended that Congress establish a Federal Capacity Expansion Program, or CEP, for implementation in FY 1993. Although authorizing legislation for this program is still pending in Congress, the President's budget request for FY 1993 includes $86 million for full implementation of the CEP next year. In the interim, Pub. L. 102–141 provides for a limited amount of funding to initiate a capacity expansion effort in FY 1992.

The CEP, as envisioned in the Administration's budget proposal, will provide resources to States for the creation of new addiction treatment capacity in jurisdictions where there is a documented gap between the need for treatment and the availability of existing treatment services. The goal of the CEP in FY 1993 will be to expand treatment capacity in a targeted manner, by providing funds to States with the greatest need through a competitive grant process. The CEP, as proposed for 1993, will have the following characteristics:

- Only States will be eligible to apply for funding.
- Each State will be required to submit a comprehensive Statewide Substance Abuse Prevention and Treatment Plan in order to be eligible for award. State plans must be developed based on actual sub-state needs assessment data which clearly identify existing gaps between the demand for treatment and the availability of treatment services at the local level.
- Proposed expansion projects included in a State's application may target any and all population groups, provided the need for services is clearly supported by existing needs assessment data and no restriction will be placed on the total number of proposed projects contained in a State application.
- Only those projects proposed by the State which are consistent with the gaps identified in the State's plan will be considered for award under this program; preference for award will be given to those projects which propose to provide comprehensive, effective treatment interventions.
- In order to be eligible to apply for funds, applicant States must be willing to provide non-Federal matching funds in support of the projects contained in their proposals, and non-Federal matching must escalate over the period of award.
- Awards will be made for a period of up to three years, with continuation funds provided on a competitive basis in years four and five; and availability of an escalating non-Federal match in years four and five will factor most prominently in decisions regarding award of continuation funds.

Capacity Expansion Program for FY 1992 Under this RFA

OTI intends to administer the $9 million in appropriations available under Pub. L. 102–141 in the current fiscal year in a manner that closely parallels the Administration's CEP proposal for FY 1993, with the following important distinctions:

- OTI will give priority to funding projects proposed by States that can submit Statewide Substance Abuse Prevention and Treatment Plans based on documented sub-state needs assessment data (see AWARD CRITERIA); however, submission of State plans and related needs assessment data will not be an absolute requirement for program eligibility. In any case, all State applicants will be required to submit a description of their treatment shortages and how their funding proposals address these needs.
- OTI will give priority to funding projects proposed by States willing to provide non-Federal matching funds in support of the projects contained in their proposals (see AWARD CRITERIA); however, State provision of non-Federal matching funds will not be an absolute requirement for program eligibility. However, if CEP is authorized in a manner consistent with the Administration's proposals for FY 1993, continuation funding will be available only for those projects which are willing to provide non-Federal matching funds.
- OTI is soliciting proposals only for the expansion of effective, comprehensive treatment capacity for one or more of the following high-risk populations: (1) Adolescents; (2) racial and ethnic minorities; (3) pregnant women; (4) female addicts and their children; and (5) residents of public housing. OTI's current operating authority, section 509G(b) of the Public Health Service Act (as added by Pub. L. 100–690), allows OTI to support projects which focus on the treatment needs of individuals within one or more of these five target populations. However, if the CEP is authorized in a manner consistent with the Administration's proposal for FY 1993 and beyond, future announcements for this program will allow awards based on demonstrated State needs, without limitation on specific target populations.
- Because of the limited amount of funds available for this program in FY 1992 ($9 million), each State may request funding for a maximum of up to four (4) individual capacity expansion projects. While there is no limitation on the amount of funds requested for the projects contained in each State application, no individual State will receive more than $2 million in awards under this program for FY 1992.

Target Population(s)

OTI experience and existing research illustrate that certain population cohorts are at high-risk for substance abuse-related morbidity and mortality. These high-risk critical populations are set forth in section 509G(b) of the Public Health Service Act (as added by Pub. L. 100–690), and are described as follows:

Adolescents (Aged 10–18)

Especially those who are chronic truants or who have dropped out of school, are at extremely high risk for the consequences of sustained substance abuse, including early death due to suicide, homicide or accidents directly related to intoxication, overdose, and HIV or hepatitis B infection. Although documented substance abuse is higher in the 18–25 age cohort of the population, programs which reach younger adolescents stand a much better chance of success, especially in terms of returning the adolescent to school and ensuring these youth achieve sustained recovery.

Racial or Ethnic Minorities (Any Age or Gender)

Especially those who have limited access to primary health care, mental health care, and social services (i.e., those who have incomes below the Federal poverty line) have been statistically proven to be more vulnerable to addiction-related disease, infection and socio-economic dysfunction when compared to majority populations.[1] Recent data from the National Institute on Drug Abuse (NIDA) Household Survey indicate that substance abuse is rising in the young adult and adult age cohorts of racial and ethnic minority populations (ages 19–32).

Pregnant Women and Female Addicts and Their Children

Pregnant women or women in the perinatal age cohorts who lack access to primary and preventive health care

[1] Includes Black Americans, Hispanic Americans, Asian Americans (including sub-populations from Southeast Asia and former or current residents of territories in the South Pacific), American Indians, Alaska Natives, and native Hawaiians.

services, are at greatest risk of unwanted pregnancy, HIV infection and other sexually transmitted diseases (STDs), as a result of their addictive behavior. Research has shown that children reared in family environments where alcohol and drug abuse are present are prone to psycho-social dysfunction, including depression, use of alcohol and illicit drugs, and poor school performance.

Residents of Public Housing Developments

Permanent residents of Public or Assisted Housing Projects subsidized by the Department of Housing and Urban Development (HUD). These individuals experience higher rates of morbidity and mortality by virtue of exposure to various forms of socio-economic dysfunction, as well as their limited access to high quality health, mental health and addiction treatment services.

Vulnerability to the onset of addiction and addiction-related health disorders is substantially higher for these critical populations, even more so for members of these populations who are also:

- Involved with the criminal or juvenile justice systems.
- Dually diagnosed, i.e. have a co-existing conduct disorders or other mental illness.
- Homeless or runaways.
- Residents of rural areas and/or residents of migrant farm labor communities.

Under this announcement, OTI will award grants to applicants who propose to serve the needs of those populations defined above who, by definition, qualify as eligible populations under Pub. L. 100–690.

Program Goals

By administering available funds in a manner that closely parallels the proposed CEP structure for FY 1993, OTI is pursuing the goal of expanding the availability of effective treatment capacity in a targeted, cost-effective manner, while encouraging States to compile known needs assessment data and to complete existing Statewide Substance Abuse Prevention and Treatment Plans. OTI considers that effective treatment programs must strive to:

- Decrease substance abuse;
- Decrease related crime and other social dysfunctions and dislocations (e.g., homelessness, unemployment, and child abuse);
- Increase patient social, educational, and vocational functioning; and
- Reduce patient morbidity, including the incidence/severity of mental and physical health disorders, especially HIV seroprevalence, tuberculosis (TB) and STDs.

OTI's operating philosophy is that addiction is a chronic, complex, bio-psycho-social disease phenomenon, and that treatment is most successful when providers offer a sustained continuum of comprehensive therapeutic interventions, including a wide array of health, substance abuse, education, and social services. Prior experience indicates that treatment outcome should improve markedly for patients treated in "model" comprehensive treatment environments of this type.

OTI intends that proposed projects, together with existing services in the sub-applicant's community, will constitute a comprehensive, effective treatment approach (see appendix I, "OTI Comprehensive Treatment Model"). Preference for funding will therefore be given to sub-applicants proposing to implement comprehensive treatment interventions consistent with the OTI Treatment Model (see Review Criteria). Methods of implementing the components in the OTI Model, the staff delivering each service, and the milieu in which services are delivered are expected to vary depending on the defined needs of each sub-applicant's target population.

Relationship to Healthy People 2000 and Other Federal Programs

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national public health initiative. This RFA, "Capacity Expansion Program," is related to the Healthy People 2000 priorities established for prevention and treatment of Alcohol and Other Drug Abuse. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report: Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone 202–783–3238). Where possible, applicants should demonstrate coordination between their efforts and related Federal health and human services programs, such as:

ADAMHA

- Cooperative Agreements for Drug Abuse Treatment Improvement Projects in Target Cities (OTI)
- Model Comprehensive Treatment Program for Critical Populations (OTI)
- Demonstration Grants for the Prevention of Alcohol and Other Drug Abuse Among High Risk Youth Program (OSAP)
- Pregnant and Postpartum Women and Infants Program (OSAP)

The Health Resources and Services Administration

- "Healthy Start" projects
- Ryan White Comprehensive AIDS Resources Emergency Act of 1990 grants
- Community and Migrant Health Centers
- Health Care in Public Housing grants
- Health Care for the Homeless grants

Centers for Disease Control

- Various programs for treatment and prevention of HIV, TB, and STDs

Office of Population Affairs

- Family Planning Clinics

Administration for Children and Families

- Runaway and Homeless Youth Shelters and Centers
- Headstart
- Emergency Child Abuse and Neglect Prevention Services

Other Federal Departments

- Projects funded by the Office of Juvenile Justice and the Bureau of Justice Assistance, U.S. Department of Justice
- Projects funded by the Department of Education
- Projects funded by the Department of Housing and Urban Development (e.g. Shelter Plus Care)
- Projects funded by the Department of Agriculture (e.g. WIC)

Eligibility

Applicants

OTI is restricting eligibility for funding under this program to States.[2] Specifically, eligibility is restricted to the Single State Agency (SSA) for Alcohol and Drug Abuse in each State. Under the auspices of OTI's State Systems Development Program, or SSDP, OTI is working in partnership with the SSA in each State to conduct sub-state needs assessments and to develop Statewide Prevention and Treatment Plans. OTI intends that SSAs shall be the applicant State agency as a means to coordinate the activities sponsored under the SSDP with capacity

[2] For purposes of this announcement, "State" is defined as the 50 States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Successor States to the Trust Territory of the Pacific Islands (the Federal States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau).

expansion projects funded under this RFA. Moreover, OTI anticipates that the volume and availability of future funds for projects awarded under this announcement will be influenced by the extent to which State data collection and planning activities sponsored under the SSDP are coordinated with State and Federal management of projects funded under this RFA (see AMOUNT AND LENGTH AND AWARD).

For the purposes of this program, the SSA will be considered the applicant, and all entities wishing to apply for funding for a specific capacity expansion project at the State or sub-State level will be considered sub-applicants. Sub-applicants may be governmental units, or public or private, non-profit or for-profit entities wishing to apply through the States for support. All sub-applicants wishing to apply for funds under this program must submit their applications through the Single State Agency. State applications for funding must include a letter from the Director of the Single State Agency for Alcohol and Drug Abuse, listing all sub-applicant proposals contained in the State's application package. Additional copies of this letter must be included in each sub-applicant proposal as Document 1, in Appendix 1, Eligibility Documentation.

As the grantee, each State will be primarily responsible for administering sub-applicant awards in a manner consistent with PHS/ADAMHA grants management policies and with the terms and conditions specified in individual State awards received under this program. OTI project officers will work closely with designated State officials to assure smooth oversight and monitoring of subrecipient projects.

Total Number of Proposed Projects

Because of the limited amount of funds available for this program in FY 1992 ($9 million), each State may request funding for a maximum of for (4) individual capacity expansion projects. Each State Agency Director must submit a cover letter accompanying the application which lists, by name, each of the sub-applicant proposals included in the State's application (see Application Process). If a State application contains more than four (4) sub-applicant proposals, the application will be returned to the State and will not be considered eligible for review by OTI.

Prior Experience

In order to ensure cost-effective allocation of limited resources under this program, OTI is restricting eligibility to those sub-applicants that can demonstrate capability to perform. Evidence of capability to perform must accompany each sub-applicant proposal and will vary depending upon whether the sub-applicant is non-rural or rural, as follows:

Non-Rural Sub-Applicants

(Those located in a Standard Metropolitan Statistical Area–SMSA)–must have a minimum of two years' prior experience providing substance abuse treatment services to the target population, or be licensed or accredited to provide treatment services by appropriate certification or credentialing bodies. Sub-applicants located within the confines of a SMSA must submit a letter from the Single State Agency certifying that: (1) The proposed project is located within the confines of a SMSA, and (2) the number of years the sub-applicant has been providing substance abuse treatment or treatment-related services (e.g. preventive and primary health care) to the target population(s), and/or (3) the sub-applicant's licensure status (addition treatment, primary health care facility, mental health care facility, etc.). This certification letter should be included in the sub-applicant's proposal as Document 2 in Appendix 1. In making its determinations regarding sub-applicant eligibility under this criterion, States may utilize one or more of the following:

- Annual monitoring/status reports;
- State or sub-State licensure (where applicable);
- Joint Commission on Accreditation for Hospital Organizations accreditation (where applicable);
- Other Auditable documentation; and
- National Drug Abuse Treatment Utilization Survey Reports.

Rural Sub-Applicants

(Those not located in SMSA)–Because of the limited number of addiction treatment providers in rural areas, these sub-applicants will not be held to the minimum two year operation requirement, nor will licensure be required. However, rural sub-applicants who receive awards and who operate in jurisdictions that offer licensure will be expected to obtain licensure within two years of award.

Rural sub-applicants must, however, document the existence of an infrastructure upon which to build a capacity expansion program in their service area. Such documentation must be in the form of a letter from the State Agency, which certifies the existence of a program base and/or sufficient facilities and human resources within the sub-applicant's service area. This certification letter should be included in the sub-applicant's proposal as Document 3 in Appendix 1.

Inappropriate for Review by OTI

1. Research demonstration applications using rigorously controlled comparative experimental designs to assess the efficacy of particular substance abuse interventions are inappropriate under this announcement. Such proposals may be more appropriate for NIDA, or the National Institute on Alcohol Abuse and Alcoholism (NIAAA).

2. Applications that request support for projects whose primary focus is prevention or early intervention projects are inappropriate under this announcement, but may be appropriate for programs supported by the Office for Substance Abuse Prevention (OSAP).

Funding for demonstration programs may not be requested from more than one PHS component. In particular, the application may not be submitted to NIAAA, NIDA, OSAP, or OTI for the same programmatic activities for the same patient population.

For information on grant programs of the above listed Institutes/Offices, call the National Clearinghouse for Alcohol and Drug Information, 1–800–SAY–NO–TO.

Funding Priorities

OTI intends to give priority to funding projects in those States willing to conform to the following program objectives:

Consistency with Statewide Prevention and Treatment Plans

Commensurate with OTI's objective to improve the coordination and integration of treatment service delivery and to help ensure State financial support following the period of Federal support for this program, OTI will give priority to funding sub-applicant projects determined to be consistent with existing Statewide Prevention and Treatment Plans (see AWARD CRITERIA). Specifically, OTI will give priority to funding projects in States where the demand for additional treatment capacity is clearly documented in the State plan and supported by related needs assessment data.

For States that wish to make such assurance on behalf of sub-applicant proposals, a copy of the current State Plan, with accompanying data, and a letter from the Director of the Single State Agency certifying proposed project consistency with the State plan, should be included in the State's application. A copy of the letter from the State Agency

Director should be included as Document 5, Appendix 2, in each sub-applicant proposal for which the assurance applies. In any case, a State shall be required to describe their treatment shortages and how its funding proposal addresses these needs.

Availability of Non-Federal Matching Funds

In an effort to encourage State and local governments to continue to devote sufficient resources to areas in greatest need of addiction treatment services, OTI will give priority to funding States and/or sub-applicants willing to pledge non-Federal matching funds to support proposed projects contained in each State application (see AWARD CRITERIA). Matching resources may be financial or in-kind, must be derived from non-Federal sources (e.g. State or sub-state non-Federal revenues, non-Federal (State) Medicaid contribution, foundation grants), and must constitute at least 10 percent of the total annual costs (direct and indirect) of the proposed project(s) for which the assurance is provided. States and/or sub-applicants willing to commit to a non-Federal match which escalates over the period of award will be given special priority for funding.

State certification of the availability of non-Federal matching funds is not an absolute requirement for eligibility for this program. States wishing to provide such assurance do not have to provide the assurance for all sub-applicant projects, nor in the same amount for each project contained in the State's proposal.

For States wishing to make such assurance on behalf of one or more proposed projects, a letter from the Single State Agency Director, endorsed by the Governor, which attests to the availability of non-Federal matching support for some or all of the projects proposed by the State, must accompany the State application. Copies of this letter should be included as Document 6, Appendix 2 for each sub-applicant proposal for which the assurance applies.

Sub-applicants may independently verify the availability of non-Federal matching funds from sources other than the State. Documentation in support of such assurance should be included as Document 6, Appendix 2 of each sub-applicant proposal. Documentation must be in the form of a letter provided by the source of the matching funds, on official letterhead, endorsed by an official who is authorized to commit the funds.

Whether provided by the State or by sub-applicant(s), all assurances regarding the availability of non-Federal matching funds will be verified prior to award. As previously stated, the President, in the context of the Administration's legislative and budgetary proposals, has recommended that Congress establish a Federal Capacity Expansion Program for implementation in FY 1993. Authorizing legislation for this program is still pending in Congress. If CEP is authorized in a manner consistent with the Administration's proposal for FY 1993, all applicants will be required to provide non-Federal matching funds in years two and beyond in order to qualify for continuation funding.

Rapid Award of Federal Funds to Sub-recipients

Because of the critical need to increase capacity and improve the availability of comprehensive substance abuse treatment services, OTI places considerable emphasis on rapid award of funds to sub-recipient projects by the State following OTI award notification. Therefore, OTI will give priority to funding projects in those States which provide a strong written assurance that funds will be rapidly awarded to sub-recipients following the date of Federal grant award (see AWARD CRITERIA) and to those States with a history/track record of rapid obligation of OTI grant funds. For States that wish to make such assurance, a letter from the Director of the Single State Agency certifying rapid award of funds following the date of grant notification should be included as Document 4, Appendix 2, in each sub-applicant proposal.

Terms and Conditions of Support

Coordination with State Systems Development Program (SSDP)

States will be expected to coordinate relevant aspects of project monitoring, quality assurance, data collection, and strategic planning, including plans for State/local assumption of future years' project costs, with similar activities implemented under the SSDP (see ELIGIBILITY REQUIREMENTS).

Fund Use

States may use grant funds only to support the particular projects for which funding is provided by OTI. Awarded funds may not be re-budgeted among projects by the State without the written prior approval of the OTI Grants Management Officer.

Grant funds may be used for necessary expenses clearly related to the proposed project(s), including direct costs which can be specifically identified with the project, together with allowable indirect costs of the organization. Allowable items of expenditure for which grant support may be requested included:

- Salaries, wages, and fringe benefits of professional and other supporting staff engaged in the project activities;
- Travel directly related to activities under the approved project;
- Supplies, communications, and rental of space directly related to approved project activities;
- Contracts for performance of activities under the approved project;
- Other such items necessary to support project activities;
- Alterations and renovations. Costs for alternations and renovations (A&R) are only allowable if necessary for the success of the program and are subject to the PHS Grants Policy Statement which requires that,"The amount budgeted or used for A&R during three consecutive budget periods (whether or not the three years overlap two distinct competitive segments of support) cannot exceed the lesser of $150,000 or 25% of the total funds reasonably expected to be awarded by PHS for direct costs for such a three-year period. The maximum amount of PHS grant funds that may be applied to any single A&R project is $150,000—regardless of the number of budget periods involved." CONSTRUCTION COSTS ARE NOT ALLOWED.

States shall not be entitled to recover their costs for administering these grant funds.

Meeting Participation

Funds should be requested for at least one representative from each sub-applicant agency to attend one national technical assistance meeting per grant year, to be convened in a centralized geographic location. Each technical assistance meeting will average three days in duration.

Grants must be administered in accordance with the PHS Grants Policy Statement (Rev. October 1, 1990).

Federal regulations at title 45 CFR parts 74 and 92, generic requirements concerning the administration of grants, are applicable to these awards.

Amount and Length of Award

Support may be requested for a project period of up to three years. Depending on the availability of funds and the Administration's priorities in FY 1995, OTI may announce the availability of continuation funds for years four and five of the project period. If continuation funds are provided, they will be awarded on a competitive basis, subject to:

(1) The extent to which ongoing demand for treatment is justified based on current, valid needs assessment data,

(2) The degree of State support, as evidenced by inclusion of the sub-recipient project in State prevention and treatment plans,

(3) The degree to which the State or sub-applicant is willing to provide an escalating non-Federal match for the remaining two years of Federal support, and

(4) The extent to which the sub-applicant achieved the goals and objectives outlined for the project during the first three years award under this announcement.

If CEP is authorized in a manner consistent with the Administration's proposals for FY 1993, continuation funding for years two and beyond will be available only for those projects which are willing to provide non-Federal matching funds.

In FY 1992, approximately $9 million will be available to support roughly 18 to 22 individual treatment expansion projects at the sub-applicant level. It is expected that individual project funding needs will vary widely. State awards could range from a low of $250,000 to a high of $2 million, though the number and size of grant awards to States will depend upon program priorities, quality of applications received, and availability of funds at the time of award. In any event, no State will receive in excess of $2 million in awards under the auspices of this program for FY 1992.

Non-rural vs. rural allocation of funds is expected to be approximately $6 million and $3 million respectively, though fund allocation may vary depending on the technical merit of applications received.

Maintenance of Effort

States shall not use funds awarded under this RFA to supplant existing State or other resources presently being utilized to support sub-recipient treatment program activities. A letter from the Single State Agency which certifies that Federal funds will not be utilized to supplant or replace non-Federal funds already budgeted for proposed projects must be provided as Document 7, Appendix 2 in each sub-applicant proposal.

Reporting Requirements

Progress reports will be required as specified by OTI and PHS Grants Management Policy requirements. The reporting requirements contained in this announcement are covered under the Paperwork Reduction Act of 1980, P.L. 96–511, OMB Approval Number 0937–0189.

Executive Order 12372 (Intergovernmental Review)

The intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR part 100, are applicable to this program. Executive Order 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants should contact the State Single Point of Contact (SPOC) as early as possible to alert them to prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application kit. The SPOC should send any State recommendations to: Capacity Expansion Program, Technical Resources, Incorporated, 3202 Tower Oaks Blvd., Rockville, Maryland 20852, (301) 230–4792 or (301) 230–4788.

The due date for State process recommendations is 60 days after the deadline date for receipt of applications. OTI does not guarantee to accommodate or explain State recommendations that are received after the 60-day cut-off date.

Application Process

The Single State Agency for Alcohol and Drug Abuse must submit the following:

(1) A cover letter listing all projects included in the application.

(2) A face sheet (Standard Form 424).

(3) One form PHS 5161–1* (rev 3/89), illustrating consolidated budget information for all projects.

(4) If applicable, a copy of the State's current Statewide Substance Abuse Prevention and Treatment Plan and a letter from the Director of the Single State Agency which attests to the extent to which sub-applicant proposals are consistent with the State plan. For States wishing to make such assurance, a copy of the letter should be included as Document 5, Appendix 2 in each sub-applicant proposal for which the assurance applies. Provision of this assurance is not an eligibility criterion for this program. States may elect to provide such assurance selectively (e.g. for only some of the projects contained in the State's proposal) or not at all.

(5) If applicable, a letter from the Single State Agency Director, endorsed by the Governor, which attests to the availability of non-Federal matching support for some or all of the projects proposed in the State application. Copies of this letter should be included as Document 6, Appendix 2 for each sub-applicant proposal for which the assurance applies.

Each Sub-applicant must submit to the Single State Agency the following:

(1) A face page and a complete PHS 5161–1* form.

(2) A separate budget sheet (Standard Form 424A), which detailed, itemized categorical budget information (i.e., personnel, equipment, supplies, travel).

(3) A separate narrative justification for each budget category requested. The sub-applicant's budget and budget justification must include information which delineates the costs associated with new treatment capacity.

*Note: The title and number of this RFA, "Capacity Expansion Program OTI–92–01" must appear in item number 10 on the face page of the Application for Federal Assistance (Standard Form 424) in PHS 5161–1.

The signed original and two copies of the form PHS 5161–1* must be sent by the Single State Agency to: UIS, 3206 Tower Oaks Boulevard, Rockville, MD 20852, Telephone 301–595–7388, Contact: Ms. Pat Downey.

All Information Provided in Applications Must Be Accurate and Truthful to the Best of the Applicant's and Sub-Applicant's Knowledge, Under Penalty of All Applicable Federal Laws and Regulations

Application kits containing the necessary forms and instructions may be obtained from: Capacity Expansion Program, Technical Resources, Incorporated, 3202 Tower Oaks Blvd., Rockville, Maryland 20852, (301) 230–4792 or (301) 230–4788.

Application Structure and Content

Each sub-applicant must develop and submit, through the State a complete single application for funding. The application should consist of, in this order: a Face Sheet (SF–424); Abstract; Table of Contents; Narrative; and Appendices.

Abstract

The Abstract is extremely important to the sub-applicant as it summarizes the entire concept of the program and is the only section of the Application which, upon grant award, becomes a matter of public record. The Abstract also: (a) Determines the initial steps in the review process; and (b) becomes the permanent official description of the project in the Review Summary Statement.

The Abstract should be single-spaced, 30-lines or less, and must summarize, in brief form, excerpts from each of the

narrative components of the application, including:

(1) Problem identification;

(2) The target population and sub-population groups that will be served by this project, including racial/ethnic group and gender breakouts and estimates of the numbers of individuals served, both current and proposed;

(3) Substances that are typically abused by the target population(s);

(4) The components (modalities) of the proposed treatment project; and

(5) The functional relationship of the proposed project to existing program components or the community treatment infrastructure.

Table of Contents

Immediately following the abstract page, a table of contents is required which identifies the beginning page of each section of the proposal. The following sections must be included in the Table of Contents (Sections A.–G. constitute the Narrative portion of the application:

A. Program Background and Problem Statement
B. Needs Assessment and Target Population
C. Goals and Objectives
D. Approach/Method
E. Evaluation Plan
F. Confidentiality Requirements
G. Project Staffing, Management and Organization
H. Budget, Budget Justification and Existing Resources
I. Check List
J. Appendices

Narrative

The narrative is the core of the proposal. It must be well organized and self explanatory. All narrative pages must be single spaced with typeface no smaller than 10 point. Sections A–E are limited to 33 pages and Sections F–H are limited to 10 pages. See detailed instructions below for preparing these Narrative Sections. Sub-applicants must provide the following information in the sections identified below.

(Note: The following sections A–G replace the general instructions for completing the program narrative of the application Form PHS–5161–1.)

A. Program Background and Problem Statement

• Present Patient Population [3]—sub-applicants which presently serve substance abusing individuals must describe the characteristics of the program's existing patient population. Using the most recent available census or total annual census figures (specify which one is being utilized), sub-applicants must describe:

(1) Age, by cohort (e.g. 10–13, 14–18, 19–25);

(2) Racial/ethnic characteristics (by percentages);

(3) Gender (in percentages);

(4) Other socio-demographic and economic characteristics of the existing patient population;

(5) The substance abuse pattern, by type of substance(s) used and estimated frequency of use; and

(6) Incidence of HIV infection, AIDS, sexually transmitted diseases, mental illness, and other morbidity indicators, by type.

Present Treatment Program—sub-applicants with existing programs (e.g. non-rural programs located within SMSAs) must describe their present program characteristics, including: treatment modality(ies); the array and frequency of services available on site and those available through linkages to other community services. Static treatment capacity for the existing program, or the maximum number of persons that can be treated at any single point in time, given the program's physical characteristics, size, staff composition, and financial and other resources, should be clearly identified. For residential programs, e.g. 24-hour care units, the static capacity is roughly equal to the number of beds available. For ambulatory providers (less than 24-hour care), static capacity equals the maximum active patient caseload at any single point in time, e.g., if an outpatient program has set a policy that there must be one counselor for every 20 patients and it has five full-time counselors, then the program has a static capacity of 100.

Rural applicants not building on an existing treatment program must concisely describe relevant existing health and human service programs, human resources, and other infrastructure components available in the service area that will be utilized to support the proposed project.

• Describe the socio-economic characteristics of the community in which the target population resides, e.g., income levels, unemployment, homelessness.

B. Needs Assessment and Target Population

For the geographic service area (as defined by the sub-applicant): A needs assessment specific to the service area must be provided, and include:

• A detailed description based on available statistical/epidemiological data of the demographics, socioeconomic and racial/ethnic characteristics, incidence of truancy and drop-out rates (if applicable), criminal activity;

• Extent of HIV/AIDS and substance abuse in the target community (data on the incidence of HIV/AIDS may be obtained from the Centers for Disease Control);

• A discussion of service/treatment gaps and other problems, such as accessibility of primary health care and addiction treatment services; and

• Statistical and other evidence that the proposed services are needed in the community and are not currently being provided.

The methodology used to compile local needs assessment data must be described in this section of the application. Objective indicators which may be of value to developing the needs assessment include school district data for truancy and drop-outs, incidence and prevalence data from State alcohol and drug abuse agencies or State/local health departments (if available), Drug Abuse Warning Network (DAWN) data, other hospital emergency room statistics, Drug Use Forecasting (DUF) data, medical examiners findings, and data obtained from primary care clinics, TB clinics, and STD clinics.

For the Target Patient Population [4] which is to be the focus of the proposed expansion, describe the characteristics of the proposed patient population in terms of:

(1) Age, by cohort;

(2) Racial/ethnic characteristics (by percentages);

(3) Gender (in percentages);

(4) Other socio-demographic and economic characteristics of the existing patient population;

(5) The substance abuse pattern, by type of substance(s) used and estimated frequency of use; and

(6) Incidence of HIV infections, AIDS, sexually transmitted diseases, mental illness, and other morbidity indicators, by type.

C. Goals and Objectives

Indentify the goals and specific treatment expansion objectives for the proposed project and discuss how these goals relate to those in the grant announcement. In addition, the project's goals and objectives should be directly related to the needs identified in section B.

[3] As the same items are required for the present patient population and the target population, sub-applicants may wish to present this information in a single chart.

[4] See footnote 3.

D. Approach/Method

Demonstrate familiarity with and understanding of state-of-the-art practices and general knowledge regarding service delivery appropriate to the target population that will be the focus of the proposed expansion project. Include a brief review of the literature and of other related projects or studies.

Discuss in detail the approaches/methods for carrying out the goals and objectives of the proposed project. At a minimum, these approaches and methods must clearly be linked to the treatment components defined in Appendix I, "OTI Comprehensive Treatment Model". The sub-applicant must describe in detail:

1. The Program's Mission and treatment philosophy, in summary form. Provide a detailed statement of the program mission and treatment philosophy in *Appendix 3* of the application.

2. Treatment Modalities and Expansion: (a) The specific treatment modalities to be used; (b) specific program organizational units where expansion will take place; and (c) how expansion, together with existing treatment service components in the program or within the surrounding community, will result in comprehensive effective treatment service delivery for the target population(s).

3. Culture and Gender Sensitivity: How the unique needs and concerns of racial/ethnic minority individuals will be addressed in all aspects of service delivery, giving appropriate attention to such factors as cultural orientations and belief/value systems relevant to the target population(s). Likewise describe procedures for gender-specific patent identification, involvement, retention, and follow-up.

4. Facility/Staff/Equipment: The physical characteristics of the facility where treatment capacity expansion will take place, the specific staff (by position description) and any equipment which may be required to implement the expansion project.

E. Evaluation Plan

Applications should provide a comprehensive evaluation plan which, at a minimum, covers process evaluation. The plan must include a description and detailed justification of any requested computer equipment and personnel for data collection and analysis as well as justification for the overall methodology.

The plan for a process evaluation should include the following components: (1) Evaluation design; (2) data collection methodology; and (3) data analysis methods. The evaluation design must be consonant with and directly address the stated goals and objectives of the project. The data collection methodology should detail the sources of documentation to be used and a justification for each.

See Appendix II for examples of common process evaluation data collection methodologies.

Process evaluation measures that focus on the extent to which problems or barriers are encountered and overcome in the effort to expand capacity should be a major focus of the program evaluation.

OTI intends to conduct a separate treatment outcome evaluation for this program. This evaluation effort is titled the "National Treatment Improvement Evaluation Study," or NTIES. Use of outcome measures and instrumentation specific to NTIES will be required to some or all grant recipients and all sub-recipients will receive some level of direct technical evaluation assistance through NTIES. The outcome measures that will be utilized by NTIES will be developed by OTI in concert with the national contractor, and a representative sample of grantees and sub-recipients. States and sub-recipients will be required to work closely with the NTIES evaluator, to provide data and to comply with appropriate Rules and Regulations, (e.g., 42 CFR part 2).

OTI estimates that 25 percent of a full-time equivalent staff position will be required on behalf of an individual with program evaluation and/or research experience in order to facilitate program participation in NTIES. This level of staff effort is over and above that required for the conduct of program process evaluation (above). Sub-applicants should structure their requests for staff salaries and staff composition accordingly. Nothing in this section is meant to preclude interested applicants from proposing to conduct quasi-experimental or experimental program evaluation efforts designed to assess program efficacy/treatment outcome. However, sub-applicants proposing to implement their own treatment outcome evaluations will be expected to coordinate with the NTIES evaluator and will be required to modify their evaluation protocols in a manner that compliments, and does not replicate, the NTIES study design.

F. Confidentiality Requirements

Applicants should describe procedures used to ensure confidentiality and protection of patients in this section. Awardees must agree to maintain the confidentiality of Alcohol and drug abuse patient data in accordance with the regulations governing, "Confidentiality of alcohol and Drug Abuse Patient Records," (42 CFR part 2).

G. Project Staffing, Management and Organization

1. Organizational Structure

Provide a narrative description and organizational chart, clearly indicating the sub-applicant's entire organizational structure and its component parts, how the proposed expansion relates to various program components, and how it fits into the overall structure of the organization. Describe lines of authority between the Project Director and each related project unit/activity within the organization.

The responsibilities and composition of Boards of Supervisors, Directors, Trustees, and/or Advisors should be included, where applicable.

Provide a description of organizational relationships between the sub-applicant and other State/local level health and human services and juvenile corrections agencies as these relate to proposed services. If the sub-applicant agency is responsible to or receives program and/or management direction from a State, regional, or other office or agency, this relationship should be clearly described.

If a multi-site project applies or application is made on behalf of more than one program within the same organization, the following must be provided: (1) Lines of authority, clearly illustrated in an organizational chart; (2) differentiation of objectives/expansion volume between each site and/or program; (3) evidence of coordination among all program components; (4) identification of facility location; and (5) delineation of linkages between components of the project with other alcohol, drug, health, mental health, education, and public service agencies in the community. Include in Appendix 4 copies of letters and/or other documentation of specific commitments of support and participation in the proposed project.

2. Organizational Capability

Provide evidence that the organization is capable of implementing the proposed project. Applicants should provide evidence of experience in similar or relevant activities, expertise in service delivery and evaluation, experience in developing and effectively using inter-organizational agreements, and other indications of capability implicit in this RFA. To the extent the applicant is licensed and/or accredited to render

addiction treatment services, this should be clearly stated (e.g. licensing body, date of license, services licensed) for both rural and non-rural applicants.

3. Staffing Pattern

Highlight staff experience and/or training pertinent to the proposed project. List each position, by job title, for each staff position in each project component proposed.

Job descriptions must be submitted in Appendix 5, or each key position, e.g., management, supervisors, and clinical personnel at each site, and should include: Job title, responsibilities, supervisory relationships, education, and qualifications. Only one job description is needed for identical positions. For each position, indicate the percentage of time each incumbent will devote to the project and indicate which positions require new hiring. Illustrate graphically each position and the activities which fall under its purview. Provide documentation to assure that staff assigned to the project will be available for the amount of time required.

Include in Appendix 5 biographical sketches for all key management who will be assigned to this project, including incumbents if known.

The narrative must include a brief description of procedures for staff recruitment, selection and training, and whether any particular mix of background, skills, gender, and/or race/ethnicity is proposed. Consideration must be given to the use of multi-disciplinary staff and staff composition which adequately reflects the gender, race, ethnic and cultural characteristics of the population(s) being served.

4. Project Management Plan

The Management Plan must include: A description of the individual tasks to be performed; a task sequencing chart; a performance schedule for task completion; description of sequential relationships (e.g., after staff is on board, training/orientation begins), and; approximate level of effort required per task (in man hours or full-time equivalents). Each task should be related to the project goals and objectives, as well as to management and staffing.

H. Budget, Budget Justification, and Existing Resources

Using budget summary form SF–424A, provide budget breakouts and sub-totals for the proposed expansion. Indicate, at the beginning of the narrative portion of section H, the increased static capacity that will be created if the project is implemented (see Static Capacity definition provided under section A, Program Background). In the budget narrative, provide a brief line-item justification for every entry on the SF–424A. It is very important that the budget summary form SF–424A and the budget narrative in section H provide a clear picture of how resources will be utilized to conduct the proposed project.

Provide a detailed comparison of pre-award static capacity vs. post-award static capacity for each program component on the organizational chart in Appendix 6 of the application.

Describe the facilities, equipment, financial and other resources presently available to carry out the project. Include concrete plans for acquiring funding after Federal seed money has expired.

Other financial resources available for the project and/or program must be described in Appendix 7 and should be labeled "Other Support". Other Support refers to all current or pending support related to the provision of services to the target population described in the application. The description of other financial support should be identical in form and narrative to the description of "new" resource requirements for the expansion project.

For the primary organization and key organizations that are collaborating on the proposed project, list all currently active support and any applications or proposals pending review or funding that relate to the proposed project. If none, state none.

For all active and pending support listed, also provide the following information:

1. Source of support; include identifying number and title.
2. Project period dates.
3. Annual direct costs supported/requested.
4. Brief description of the project.
5. Justification of the nature and extent of any programmatic and/or budgetary overlaps with the proposed project.

Applicants must provide full and reliable information regarding pending support and understand that serious consequences may result if failure to provide complete and accurate information is construed as misleading to PHS. The authorized representative of the applicant organization, upon signing the face sheet, certifies that the information in the application is accurate and complete.

I. Check List (See SF 5161–1 for Required Items)

The individual responsible for carrying out the proposed project (the Project Director listed on the face page of form SF–424) must be the same individual designated on page 18, last item, of form PHS–5161 (Check List).

J. Appendices

Appended materials should be organized and labeled as follows for each separate component (where appropriate). Appendices which are not required or not included for all sub-applicants should be labeled "Not Applicable." All appendices are to be continuously paginated with the main body of the application and must include:

1. Eligibility Documentation

Document 1—Single State Agency certification of inclusion of sub-applicant proposals.

Document 2—State Certification of Prior Experience and/or Licensure for Non-rural Sub-applicants.

Document 3—State Certification of Available Resources for Rural Sub-applicants.

2. Additional Documents (as appropriate)

Document 4—State assurance of rapid obligation of funds post-award.

Document 5—Letter certifying consistency with State alcohol and drug treatment plans.

Document 6—State certification of the availability of non-Federal matching funds.

Document 7—State Certification that awards will not be utilized to supplant non-Federal resources already budgeted for the proposed project.

3. Agency Mission and Treatment Philosophy

4. Collaborative Agreements and Support Letters

5. Resumes and Job Descriptions

6. Creation of New Capacity Detail

7. Other Support

Appendices may be attached for technical or specialized materials or letters of support, but should not be used merely to extend the narrative. The Appendices must be clearly numbered and labelled, must not exceed 50 pages, and the total number of application pages, including the Appendices, must have continuous numbering.

Review Process

Applicants must submit complete applications. Upon receipt, applications that are judged to be incomplete, non-responsive to this announcement or non-conforming (e.g. exceed the page limit or do not meet the Eligibility Criteria) may be returned.

Applications judged to be responsive to this RFA will be reviewed for technical merit in accord with PHS and ADAMHA policies for competitive review, which require that applications undergo review by Initial Review Groups (IRGs) composed primarily of non-Federal experts in fields relevant to the subject of this announcement. IRG ratings accorded each application will be based on an assessment of how close the application comes to an ideal standard of technical merit, and not how it compares with other applications. Applicants and sub-applicants will be notified of the outcome following completion of review for technical merit.

For every application, each member of the IRG will assign a separate score for each of the five review criteria listed below. Scores range from 1 to 5, with 1 being the best score. Each criterion score will then be adjusted according to the relative priority weight designated below. Weighted scores will then be totalled to produce each IRG member's total scroe of the application. Finally, all IRG members' total scores will be averaged to produce the official IRG priority score for the application.

Review Criteria

State applicants will be reviewed and evaluated according to the degree of need where volume of demand exceeds existing capacity statewide. (5 points)

The five criteria that will be used in assessing technical merit of individual applications submited under this announcement, and the relative weight assigned to each criterion, are as follows:

1. Degree of Need

- Extent to which volume of demand exceeds existing capacity for the sub-applicant's service area (as documented via State assurance and in the Needs Assessment and Target Population sections of sub-applicant proposal narratives). Such assessment will consider the need of this service area, in general, and relative to other service areas in the State; and
- Extent to which the current and proposed target population(s) meets the definitions of high-risk critical populations, as described in this announcement.

2. Relevance/Adequacy of Program Design 20%

- Appropriateness of sub-applicants proposed goals and objectives relative to grant program goals and extent to which program goals are appropriate, achievable and realistic;
- Relevance and senstitivity of the proposed approach, methods, and staffing patterns (present and proposed) to age, gender, and ethnic/racial/cultural nature of the target population;
- Extent to which the interventions included in the proposed project, together with existing resources, is consistent with the OTI comprehensive model treatment approach; and
- Evidence of coordination with and commitment from substance abuse treatment, juvenile justice, health, mental health, welfare, community and educational service providers.

3. Capability and Management 20%

- Evidence of organizational capability and adequate facilities and equipment;
- Logic and feasibility of the management plan;
- Capability/experience of the proposed project director, consultants and staff; adequacy of the staffing plan; and
- Evidence of successful previous experience of the sub-applicant program, as well as evidence of licensure and/or accreditation (may not be applicable to rural applicants); for rural applicants, evidence of an infrastructure on which to build a treatment program.

4. Budget/Resources

- Extent and quality of State and/or sub-applicant assurance that sufficient resources will be available to support the proposed project(s);
- Cost effectiveness and reasonableness of overall project cost relative to planned services; and
- Reasonableness/appropriateness of budget breakouts and line item justification for each of the new treatment capacity components.

5. Program Evaluation 10%

- Clarity/feasibility/appropriateness of proposed process evaluation design and methodology; and
- Extent to which proposed staff demonstrate evaluation expertise.

Award Criteria and Process

Individual projects will be considered for funding primarily on the basis of overall technical merit of the project as determined by objective (peer) review procedures. Other criteria utilized to make final award decisions will include:

(1) Extent to which proposed project(s) are consistent with and supported by existing Statewide Substance Abuse Prevention and Treatment Plans and related needs assessment data supplied by the State.

(2) Extent to which the proposed project will receive matching funds from State or sub-state agencies or other non-Federal (private or public) sources.

(3) Need, relative to documented need in other State jurisdictions, as evidenced by objective indicators of incidence/severity such as CDC AIDS and TB Incidence data, Drug Abuse Warning Network (DAWN) data, and Drug use Forecasting (DUF) survey results.

(4) Extent of State assurance that awards will not be utilized to supplant non-Federal funds already budgeted for the project(s).

(5) Extent of State assurance that funds will be rapidly awarded to sub-recipients following the date of a grant award.

(6) Extent to which proposed projects offer to provide a comprehensive array of interventions for high-risk, critical populations.

(7) Availability of funds.

Given the limited volume of funding available, it is very highly unlikely that all projects approved for possible funding by the IRG will receive awards. If selected for an award, a State will receive a Notice of Grant Award specifying which projects are being funded, and the State will be responsible for notifying individual sub-applicant projects.

Application Receipt and Review Schedule

Receipt date	Initial review	Earliest start date
July 1, 1992.....	July–August.....	September 30, 1992.

Applications received after the above receipt date will not be reviewed and will be returned to the applicant.

OTI Contacts for Further Information

Program/RFA: Justice Berger or Nick Demos, Special Initiatives Branch (301) 443–6533.

Review process: Joan Rittenhouse, Division of Review (301) 443–8923.

Grants management: Christine Chen, Grants Management Branch (301) 443–9665.

Evaluation: Charlene Lewis, Policy and Planning Office (301) 443–5050.

Correspondence to the above individuals should be addressed to: Office for Treatment Improvement, Rockwall II, 10th Floor, 5600 Fishers Lane, Rockville, Maryland 20857.

Appendix I—OTI Comprehensive Treatment Model

I. Program Structure and Administration

- Joint cooperation among substance abuse agencies, schools, courts, probation, health and mental health providers, job training programs, and human service agencies.
- An oversight body such as a task force or advisory committee to assist with developing a shared vision, shared resources, expertise, and political support.
- Integration of corrections, mental health, primary health, and substance abuse treatment agency staffing, including cross training.
- Integration of proposed substance abuse treatment services into total institutional programming or community services programming, resulting in an integrated continuum of care.
- Ongoing program evaluation efforts.
- Staff training, especially in the areas of: Culturally relevant service delivery; screening and treatment for addiction-related disease and infection; the etiology (bio-psycho-social) of addiction and addiction-related disease and dysfunction, and; screening, assessment and treatment for psychological and psychiatric disorders among individuals who suffer from addiction.
- Employee incentive measures and professional development.

II. Clinical Interventions and Other Services

- Intake screening and assessment should consist of a medical examination, work history, substance abuse history, and psycho-social evaluation which should include: A comprehensive assessment of family functioning, cultural/ethnic factors, peer influence, deviant behavior, anti-social attitudes, mental and emotional distress, and school adjustment; where warranted, a psychiatric assessment should be provided.
- *Same day intake services* should be afforded whenever possible. Intake should include: Documented case finding, an assessment of patient eligibility (and subsequent registration) for Medicaid, public assistance, and other health and human services benefits, i.e., SSI, AFDC, Medicare, Youth Job Corps.
- *Medical care* should include: On-site provision of preventive and primary medical care (including prenatal care, if appropriate); medical or medically-supervised detoxification services, where clinically indicated; provision of, or established referral linkages for, acute medical care; testing and treatment for hepatitis, retrovirus, tuberculosis, HIV and HIV disease, syphilis, gonorrhea, and other sexually transmitted diseases.
- *Counseling for HIV positive/AIDS patients* must be provided, and include provision of or referral to individual pre- and post-test counseling and testing, together with individual counseling and support group forums provided by staff who have been properly trained to intervene on behalf of patients who are HIV seropostiive, whether symptomatic or asymptomatic.
- *Pharmacotherapeutic interventions* should be provided on an as-needed basis and should include provision of or established referral linkages for concomitant assessment and monitoring by qualified medical or psychiatric staff; pharmacotherapeutic interventions are particularly appropriate for the homeless and other patient groups with a relatively high incidence of mental health disorders, for heroin-addicted individuals who require replacement therapy, and for HIV-seropositive individuals who require prophylactic medication such as aerosol pentamidine or AZT.
- *Urine testing* should be provided on an initial and random (frequent periodic) basis, as appropriate.
- *Basic substance abuse counseling and psychological counseling* should be provided by practitioners that are licensed or certified to provide these services, and should include: Individual counseling, family and collateral counseling, and; peer/support group forums (including AA, NA, CA and PWA), especially for HIV positive patients and individuals who have been exposed to rape or physical or sexual abuse.
- *Health education and prevention* activities should include: Relapse training and prevention; HIV/AIDS education; the physiology and transmission of sexually transmitted diseases; sex education; pregnancy prevention and contraception counseling; and nutritional and general health education provided by a qualified technician.
- *Life skills education* should be afforded, which covers: Practical life skills training; parenting skills (where appropriate); vocational evaluation, counseling and training should be provided, if possible, via case managed/coordinated linkages to appropriate training programs in the community, e.g., mentor program with local businesses, youth job corps.
- *Educational training and remediation* services should be provided, including: Testing for learning disabilities; diagnostic testing, and on-site provision of or case managed linkages to local education/GED programs.
- *Justice System liaison* should be afforded, where appropriate, and include: Intervention with juvenile or adult justice authorities, TASC (or related case management/tracking systems) legal aid, and/or Bureau of Indian Affairs.
- *Other Support Services*

—Transportation and escort services.
—Child care either at the treatment facility or in the local community, as appropriate.
—Social and recreational activities, preferably in concert with a mentoring program.

- *Ongoing Intervention and Treatment* should be provided, and include: Sustained and frequent interaction with recovering individuals who have graduated from the intensive or primary phase of treatment, e.g. consistent face-to-face contact between the graduate and his/her primary counselor or case manager, graduate participation in group and individual counseling sessions, social and recreational activities geared toward the recovering substance abuser, and graduate involvement in a peer support group, NA, AA, PWA or CA; provision should be made for graduate re-admission to more intensive forms of therapy in cases where relapse has occurred.

Appendix II—Recommended Process Evaluation Measures

The following are examples of process-related evaluation data which are typically collected:

- Type and frequency of treatment services provided to patients, distinguished between existing services and expansion;
- Number of individuals entering treatment during the project;
- Type of addiction and/or related health, mental health or other problems for which patients were treated;
- Race, age, and gender characteristics of the target population served;
- Innovative approaches used for outreach, assessment, treatment, community coordination, and aftercare;
- Employee incentives utilized;
- Extent to which the grant project has been implemented as planned;
- Problems/barriers encountered and solutions offered;
- How the grant project integrates with the larger system of care within the community;
- Cost per patient served; and

• Payor source for patient treatment (patient fees, private insurance, donations, Medicaid, grant funds, etc.).

The following are examples of process evaluation analyses which may be conducted/addressed:

• Impact of the innovative approaches used for outreach, assessment, treatment, community coordination, and aftercare on admission, retention/drop-out rates, and outcome;

• Impact of the employee incentives utilized on staff retention and outcome rates;

• Problems/barriers encountered in carrying out the proposed expansions and the solutions offered;

• Changes in payor source for patient treatment (e.g., self-pay, private insurance, donations, Medicaid, state and local government, etc.).

The reporting requirements contained in this announcement are covered under the Paperwork Reduction Act of 1980, Pub. L. 96–511, OMB Approval Number 0937–0189.

The Catalog of Federal Domestic Assistance Number for this program is *93.950.*

Joseph R. Leone,

Associate Administrator for Management, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 92–9194 Filed 4–17–92; 8:45 am]

BILLING CODE 4160–20–M

Food and Drug Administration

[Docket No. 92E–0083]

Determination of Regulatory Review Period for Purposes of Patent Extension; Penetrex®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Penetrex® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, room 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Penetrex®. Penetrex® (enoxacin) is indicated for the treatment of adults (older than 18 years of age) with sexually-transmitted diseases and infections of the urinary tract caused by susceptible strains of microorganisms. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Penetrex® (U.S. Patent No. 4,359,578) from Dainippon Pharmaceutical Co., Ltd., Osaka, Japan, and Laboratoire Roger Bellon, Nevilly sur Seine, France, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. FDA, in a letter dated March 6, 1992, advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Penetrex® represented the first commercial marketing of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Penetrex® is 3,352 days. Of this time, 1,458 days occurred during the testing phase of the regulatory review period, while 1,894 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* October 27, 1982. The applicant claims October 23, 1982, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was October 27, 1982, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* October 24, 1986. The applicant claims October 20, 1986, as the date the new drug application (NDA) for Penetrex® (NDA 19–616) was filed. However, FDA records indicate that NDA 19–616 was submitted on October 24, 1986.

3. *The date the application was approved:* December 31, 1991. FDA has verified the applicant's claim that NDA 19–616 was approved on December 31, 1991.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 2 years of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 19, 1992, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 19, 1992, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit

single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 13, 1992.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 92-8995 Filed 4-17-92; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETING: The following advisory committee meeting is announced:

Circulatory System Devices Panel of the Medical Devices Advisory Committee

Date, time, and place. May 11, 1992, 8:30 a.m., First Floor Auditorium, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, 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 p.m.; closed presentation of data, 4 p.m. to 4:30 p.m.; closed committee deliberations, 4:30 p.m. to 5 p.m.; Wolf Sapirstein, Center for Devices and Radiological Health (HFZ-450), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1205.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

Agenda--Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before April 25, 1992, 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 premarket approval applications for two coronary interventional devices.

Closed presentation of data. The committee will discuss trade secret and/or confidential commercial information regarding the devices listed above. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Closed committee deliberations. The committee will discuss trade secret and/or confidential commercial information regarding the devices listed above. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above 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. The dates and times reserved for the separate portions of each committee meeting are listed above.The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI-35), Food and Drug Administration, rm. 12A-16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in

certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative session to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: April 14, 1992.

David A. Kessler,

Commissioner of Food and Drugs

[FR Doc. 92-9063 Filed 4-17-92; 8:45 am]

BILLING CODE 4160-01-F

Health Care Financing Administration

Statement of Organization, Functions, and Delegations of Authority

Part F. of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services, Health Care Financing Administration (HCFA), (49 FR 35247, dated September 6, 1984) is amended to include the following delegations of authority from the Secretary to the Administrator, HCFA. The delegations include the authority to conduct various studies and demonstrations, approve waivers and grants, develop proposals, and implement program initiatives under the specified sections of Omnibus Budget Reconciliation Act of 1990 (OBRA 90), Public Law 101-508, as may hereafter be amended. These delegations do not include the authority to make reports to Congress. The authority to make reports to Congress is reserved for the Secretary.

The specific amendments to Part F. are described below:

- Section F.30., Delegations of Authority, is amended by adding to paragraph QQ the following additional delegations of authority under OBRA 90.

QQ. The additional authorities under the Omnibus Budget Reconciliation Act of 1990 (OBRA 90), Public Law 101-508 include:

2. The authority, under section 4002(e)(2), to conduct a study to identify the extent to which variations in the adjusted average standardized amounts (as established under section 1886(d)(3) of the Social Security Act) among hospitals located in different geographical areas are attributable to differences in the input prices associated with the non-wage portion of the adjusted average standardized amounts.

3. The authority, under section 4008(l)(1), to review rural PPS hospital requirements, including standards related to staffing requirements, to determine which requirements could be made less administratively and economically burdensome.

4. The authority, under section 4111, to conduct a study of the effect of the release of Medicare prepayment medical review screen parameters on physician billings for the services to which the parameters apply. The study shall be based upon the release of the screen parameters at a minimum of six carriers.

5. The authority, under section 4113, to conduct a study of the effects of permitting the aggregation of claims that involve common issues of law and fact furnished in the same carrier area to two or more individuals by two or more physicians within the same 12-month period for purposes of appeals provided for under section 1869(b0(2) of the Social Security Act. The study shall be conducted in at least four carrier areas.

6. The authority, under section 4115(a), to conduct a study of the regional variations in impact of Medicare physician payment reform.

7. The authority, under section 4115(a)(4), to conduct a study of the appropriate adjustments or modifications in the transition to, or manner of determining payments under, the fee schedule established under section 1848 of the Social Security Act, to compensate for such variations and ensure continued access to physicians' services for Medicare beneficiaries in such areas.

8. The authority, under section 4151(b)(2)(A), to develop a proposal to replace the current system under which payment is made for hospital outpatient services under title XVIII of the Social Security Act with a system under which such payments would be made on the basis of prospectively determined rates.

9. The authority, under section 4202, to establish and carry out a 3-year demonstration project to determine whether the services of a home dialysis staff assistant providing services to a patient during hemodialysis treatment at the patients' home may be covered under the Medicare program in a cost-effective manner that ensures patient safety.

10. The authority, under section 4204(f)(1), to conduct a study of the extent to which health maintenance organizations with contracts under section 1876 of the Social Security Act (the Act) make chiropractic services available to enrollees entitled to benefits under title XVIII of the Act.

11. The authority, under section 4207(c)(1), to develop a proposal to modify or replace the current payment system for home health services under title XVIII of the Social Security Act.

12. The authority, under section 4207(g), to resume three case management demonstration projects previously approved under section 425 of the Medicare Catastrophic Coverage Act of 1988. Limitations of Authority: The authority is confined to the following demonstrations:

(1) The project proposed to be conducted by Providence Hospital for case management of the elderly at risk for acute hospitalization.

(2) The project proposed to be conducted by the Iowa Foundation for Medical Care to study patients with chronic congestive conditions to reduce repeated hospitalization of such patients.

(3) The project to be conducted by Key Care Health Resources, Inc., to examine the effects of case management on 2,500 high cost Medicare beneficiaries.

13. The authority, under section 4358(d), to conduct an evaluation of the Medicare select policies amendments defined in section 4358 of OBRA 90 as applied in the selected 15 States.

14. The authority, under section 4359(a), to establish a health insurance advisory service program to assist Medicare eligible individuals to receive services under the Medicare and Medicaid programs and the other Medicare supplemental policies.

15. The authority, under section 4360(a), to make grants to States that have an approved regulatory program under section 1882 of the Social Security Act and have submitted applications meeting the requirements of section 4360 of OBRA 90 for the purpose of providing information, counseling, and assistance regarding the procurement of health insurance coverage for Medicare beneficiaries.

16. The authority, under section 4360(c)(2), to waive some or all of the requirements contained in section 4360(b)(2) of OBRA 90 in the instances where a State's existing health insurance information counseling and assistance program is determined to be substantially similar to the program requirements described in section 4360(b)(2).

17. The authority, under section 4360(c)(2), to issue a grant to the State for the purpose of increasing the number of services offered by the State's program, experimenting with new methods of outreach in conducting the program, or expanding the program to new geographic areas of the State.

18. The authority, under section 4361(b), to conduct demonstration projects in five States for the purpose of establishing statewide toll-free telephone numbers for providing information on Medicare benefits supplemental policies available in the States and benefits under the States' Medicaid program.

19. The authority, under section 4401(c)(1)(A), to provide through competitive procurement, by no later than January 1, 1992, for the establishment of at least 10 statewide demonstration projects to evaluate the efficiency and cost-effectiveness of prospective drug utilization review (as a component of on-line real-time electronic point-of-sales claims management) in fulfilling patient counseling and reducing costs for prescription drugs.

20. The authority, under section 4401(c)(2)(A), to conduct a demonstration project to evaluate the impact on quality of care and cost-effectiveness of paying pharmacists under title XIX of the Social Security Act, whether or not a drug is dispensed for drug use review services. Limitation of Authority: No fewer than five demonstration sites in different States and the participation of a significant number of pharmacists shall be provided.

21. The authority, under section 4401(d)(3)(A), to study, in consultation with the Comptroller General, prior approval procedures utilized by State medical assistance programs conducted under title XIX of the Social Security Act, including the appeals provisions under such programs and the effects of such procedures on beneficiary and provider access to medications covered under such programs.

22. The authority, under section 4401(d)(4)(A), to conduct a study on the adequacy of current reimbursement rates to pharmacists under each State medical assistance program conducted under title XIX of the Social Security Act and the extent to which reimbursement rates under such programs have an effect on beneficiary access to medication covered and pharmacy services under such programs.

23. The authority, under section 4401(d)(5), to conduct a study of the relationship between State medical assistance plans and Federal and State acquisition and reimbursement policies for vaccine and the accessibility of vaccinations and immunizations to children provided under title XIX.

24. The authority, under section 4402(e)(2), to determine that State legislation (other than legislation appropriating funds) is required in order for a Medicaid State plan to meet the requirements imposed by section 4402(a) of OBRA 90.

25. The authority, under section 4601(b)(2), to determine that State legislation (other than legislation appropriating funds) is required in order for a Medicaid State plan to meet the requirements imposed by section 4601 of OBRA 90.

26. The authority, under section 4604(d)(2), to determine that State legislation (other than legislation appropriating funds) is required in order for a Medicaid State plan to meet the requirements imposed by section 4604 of OBRA 90.

27. The authority, under section 4745(a)(1)(A), to enter into agreements with three and no more than four States for the purpose of conducting demonstration projects to study the effect on access to health care and the cost of health care if the categorical eligibility requirement for Medicaid benefits for certain low-income individuals is eliminated. Limitations of Authority:

First, At least one and no more than two of the demonstration projects must be conducted on a substate basis as defined in section 4745(a)(1)(B) of OBRA 90.

Second, Prior to entering into an agreement with a State certain determinations must be made as defined in section 4745(a)(2)(A) of OBRA 90.

28. The authority, under section 4745(a)(2)(B), to waive provisions of section 4745a(2)(A)(ii) of OBRA 90 in order to provide that at least one and no more than two projects be conducted on a substate basis.

29. The authority, under section 4745(a)(5), to waive the requirements of Title XIX of the Social Security Act (the Act) (except section 1930(m)) as may be required to provide additional coverage of individuals within projects under section 4745 of OBRA 90. Limitation of Authority: Except with respect to those projects described in section 4745(a)(1)(B) of OBRA 90, waivers may not be made under section 4745(a)(1)(A), the statewideness requirement of section 1902(a)(1) of the Act, or the Federal medical assistance in section 1905(b).

30. The authority, under section 4745(b)(2)(B), to give a State approval to limit or otherwise deny eligibility for medical assistance under demonstration projects to study the effect of allowing States to extend Medicaid coverage to certain low-income families not otherwise qualified to receive Medicaid benefits and to limit coverage of items and services under the same projects, other than early and periodic screening, diagnostic, and treatment services for children under 18 years of age.

31. The authority, under section 4745(d), to terminate a project that studies the effect of allowing States to extend Medicaid coverage to certain low-income families not otherwise qualified to receive Medicaid benefits if it is determined that the project is not in substantial compliance with the requirements of section 4745 of OBRA 90.

32. The authority, under section 4747, to provide for two demonstration projects to be administered by States under title XIX of the Social Security Act (the Act), including waiver of such requirements of the Act to carry out the purposes of the projects. Such demonstration projects shall provide coverage for the services described in section 4747(c) of OBRA 90 to individuals whose income and resources do not exceed the maximum allowable amount for eligibility for any individual in any category of disability under the State plans under section 1902 of the Act, and who have tested positive for the presence of HIV virus (without regard to the presence of any symptoms of AIDS or opportunistic diseases related to AIDS).

33. The authority, under section 4747(e), to waive requirements of the Social Security as are necessary to conduct demonstrations mandated in this section 4747 of OBRA 90.

34. The authority, under section 4755(b)(3), to conduct an analysis of (1) the procedures for which programs for ambulatory surgery, pre-admission testing, and same-day surgery are appropriate for patients who are covered under the State Medicaid plan and (2) the effects of such programs on access of such patients to necessary care, quality of care, and costs of care.

35. The authority, under section 4801(a)(1), to make a determination that the State has satisfactorily demonstrated that it has made a good faith effort to meet the requirements of sections 1919(e)(1)(A) and (f)(2)(A) of the Social Security Act.

36. The authority, under section 4801(b)(1), to make a determination that the State has satisfactorily demonstrated that it has made a good faith effort to meet the requirements of sections 1919(e)(7)(A) and (f)(8)(A) of the Social Security Act.

37. The authority, under section 4801(c), to make a determination that the State has satisfactorily demonstrated that it has made a good faith effort to meet the requirements of section 1919(h)(2) of the Social Security Act.

38. The authority, under section 4801(e)(17)(B), to conduct a study on the appropriateness of establishing minimum care-giver to resident ratios and minimum supervisor to care-giver ratios for Medicare skilled nursing facilities and Medicaid nursing facilities receiving payments under a State plan under title XIX of the Social Security Act.

Dated: April 10, 1992.

Louis W. Sullivan,

Secretary, Department of Health and Human Services.

[FR Doc. 92-9012 Filed 4-17-92; 8:45 am]

BILLING CODE 4120-03-M

Indian Health Service

Availability of Funds for Health Professions Preparatory, Pregraduate and Indian Health Professions Scholarship Grant Programs

AGENCY: Indian Health Service (IHS), HHS.

ACTION: Notice.

SUMMARY: The Indian Health Service announces the anticipated availability of $3,063,000 to fund scholarships for the Health Professions Preparatory and Pregraduate Scholarship Grant Programs for FY 1992 awards. These programs are authorized by section 102 of Public Law 94-437 as amended by Public Law 100-713. The Health Professions Scholarship Grant Program, authorized by section 104 of Public Law 94-437, as amended by Public Law 100-713, has $7,789,000 available for FY 1992 awards. Scholarships will be awarded utilizing the Notice of Grant Award, form PHS-5152-1 (Rev. 1/83).

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led activity for setting priority areas. This program announcement is related to the priority area of Education and Community-Based Programs. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017-001-00474-0) or Healthy People 2000 (Summary Report; Stock No. 017-001-00473-1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325 (Telephone 202-783-3238).

DATE: The application deadline is May 20, 1992. Applications shall be considered as meeting the deadline if they are received by the appropriate Scholarship Coordinator on the deadline date or postmarked on or before the deadline date. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Applications received after the announced closing date will be returned to the applicant and will not be considered for funding.

ADDRESSES: Application packets may be obtained by calling or writing to the addresses listed below. The application form number is IHS 856.

IHS area office and states/ locality served	Scholarship coordinator/address
Aberdeen Area IHS: Iowa, Nebraska, North Dakota, South Dakota.	Mr. David Azure, Scholarship Coordinator, IHS Aberdeen Area, Federal Building, 115 4th Avenue, SE., Aberdeen, SD 57401, Tele: 605-226-7553.
Alaska Area Native Health Service: Alaska	Ms. Ann Breazeal, Scholarship Coordinator, IHS Alaska Area, 250 Gambell Street, Anchorage, Alaska 99501, Tele: 907-257-1408.
Albuquerque Area IHS: Colorado, New Mexico.	Ms. Alvina Waseta, Scholarship Coordinator, IHS Albuquerque Area, 505 Marquette, NW., Suite 1502, Albuquerque, MN 87102, Tele: 505-766-1627.
Bemidji Area IHS: Illinois, Indiana, Michigan, Minnesota, Wisconsin.	Ms. Shirley Lillemo, Scholarship Coordinator, IHS Bemidji Area, 203 Federal Building, Bemidji, MN 56601, Tele: 218-759-3350.
Billings Area IHS: Montana, Wyoming.	Mr. Sandy Macdonald, Scholarship Coordinator, IHS Billings Area, P.O. Box 2143, Billings, MT 59103-6601, Tele: 406-657-6909.
California Area IHS: California, Hawaii.	Mr. John Kinnison, Scholarship Coordinator, IHS California Area, 1825 Bell Street—suite 200, Sacramento, CA 95825-1097, Tele: 916-978-4202.
Nashville Area IHS: Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, District of Columbia, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia.	Mr. Edwin McLemore, Scholarship Coordinator, IHS Nashville Area, 3310 Perimeter Hill Drive, Nashville, TN 37211, Tele: 615-781-5522.
Navajo Area IHS: Arizona, New Mexico, Utah.	Mr. Virgil L. Davis, Scholarship Coordinator, IHS Navajo Area, P.O. Box G, Window Rock, AZ 86515, Tele: 602-871-5831.
Oklahoma City Area IHS: Kansas, Missouri, Oklahoma.	Mr. Jim Ingram, Scholarship Coordinator, IHS Oklahoma City Area, 215 Dean A. McGee Street, NW., Oklahoma City, OK 73102-3477, Tele: 405-231-4448.

IHS area office and states/ locality served	Scholarship coordinator/address
Phoenix Area IHS: Arizona, Nevada, Utah.	Ms. Rosh Foley, Scholarship Coordinator, IHS Phoenix Area, 3738 N. 16th Street—suite A, Phoenix, AZ 85016-2066, Tele: 602-261-2068.
Portland Area IHS: Idaho, Oregon, Washington.	Ms. Darlene Marcellay, Scholarship Coordinator, IHS Portland Area, 1220 SW. 3d Street, RN 315, Portland, OR 97204-2892, Tele: 503-326-2019.
Tucson Area IHS: Arizona, Texas..	Ms. Eileen Preston, Scholarship Coordinator, IHS Tucson Area, 7900 S.J. Stock Road, Tucson, AZ 85746, Tele: 602-629-5014.

FOR FURTHER INFORMATION CONTACT: Please address application inquiries to the appropriate Indian Health Service Area Scholarship Coordinator. Other programmatic inquiries may be addressed to Mr. Wesley J. Picciotti, Chief, Scholarship Branch, Indian Health Service, Twinbrook Metro Plaza, suite 100, 12300 Twinbrook Parkway, Rockville, Maryland 20852; Telephone 301-443-6197. (This is not a toll-free number.) For grants information, contact M. Kay Carpentier, Grants Management Officer, Grants Management Branch, Division of Acquisition and Grants Operations, Indian Health Service, room 605, 12300 Twinbrook Parkway, Rockville, MD 20852; Telephone 301-443-5204. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Health Professions Preparatory and Pregraduate Scholarship Grant Programs are authorized by section 102 of the Indian Health Care Improvement Act, Public Law 94-437 as amended by Public Law 96-537, Indian Health Care Amendments of 1980, and Public Law 100-713, Indian Health Care Amendments of 1988.

The Indian Health Scholarship Grant Program, formerly authorized by section 338I of the Public Health Service Act (42 U.S.C. 254r), is now authorized by section 102 and section 104 of the Indian Health Care Amendments of 1988, Public Law 100-713.

A. General Program Purpose

These grant programs are intended to encourage American Indians and Alaska Natives to enter the health professions and to assure the availability of Indian health professionals to serve Indians.

B. Eligibility Requirements

1. The Health Professions Preparatory Scholarship awards are made to individuals of American Indian or Native Alaskan descent, who have successfully completed high school education or high school equivalency and who have been accepted for enrollment in a compensatory, pre-professional general education course or curriculum. Support is limited to 2 years.

2. The Health Professions Pregraduate Scholarship awards are made to individuals of American Indian or Native Alaskan descent, who have successfully completed high school education or high school equivalency, and have been accepted for enrollment or are enrolled in an accredited pregraduate program leading to a baccalaureate degree in pre-medicine or pre-dentistry. Support is limited to 4 years.

3. The Health Professions Scholarship awards are made to individuals of American Indian or Native Alaskan descent enrolled in health professions and allied health professions programs. Support is limited to 2 years.

Awards for the Indian Health Professions Scholarship Grant Program will be made in accord with 42 CFR 36.330, except that pursuant to section 104 of the Indian Health Care Amendments of 1988, Public Law 100-713, only Indian applicants shall receive awards and the following service obligation provided in section 338G(b)(2) of the Public Health Service Act shall be met:

(1) In Indian Health Service;
(2) In a program conducted under a contract entered into under the Indian Self-Determination Act;
(3) In a program assisted under title V of the Indian Health Care Improvement Act (Pub.L. 94-437) and its amendments; and
(4) In private practice of his or her profession, if the practice (a) is situated in a health manpower shortage area, designated under section 332 of the Public Health Service Act and (b) addresses the health care needs of a substantial number of Indians as determined by the Secretary in accordance with guidelines of the Service.

All applicants for the Indian Health Scholarship Grant Program are reminded that recipients of this scholarship incur a service obligation. Moreover, this obligation is served at a facility determined by the Director, IHS, with the understanding that IHS primary responsibility is to fill vacancies within IHS and Public Law 93-638 Tribal Contractors (Tribal-638), and in particular, IHS and Tribal-638 priority sites. Only after IHS and Tribal-638 vacancies are filled will consideration be given other available options.

C. Fund Availability

Awards will be made in accord with regulations at 42 CFR part 36.320, incorporated in the application materials, for Health Professions Preparatory Scholarship Grant Program for Indians and 42 CFR part 36.370, incorporated in the application materials, for Health Professions Pregraduate Scholarship Grant Program for Indians. Approximately 222 awards, 80 of which are continuing, will be made under the Health Professions Preparatory and Pregraduate Scholarship Grant Programs for Indians. The awards are for 10 months in duration and the average award is for approximately $13,500. Approximately $1,080,000 is available for continuation awards. Approximately $1,983,000 is available for new awards.

Approximately 446 awards, 300 of which are continuing, will be made under the Health Professions Scholarship Grant Program for Indians. The awards are for 12 months in duration and the average award is for approximately $17,000. Approximately $5,100,000 is available for continuation awards, and $2,689,000 is available for new awards.

D. Criteria for Evaluation

Applications will be evaluated against the following criteria:

1. Needs of the IHS

Applicants are considered for scholarship awards based on their desired career goals and how these goals relate to current Indian health manpower needs. Applications for each health career category are reviewed and ranked separately.

2. Academic Performance

Applicants are rated according to their academic performance as evidenced by transcripts and faculty evaluations. In cases where a particular applicant's school has a policy not to rank students academically, faculty members are asked to provide a personal judgement of the applicant's achievement. Health Profession applicants with a cumulative GPA below 2.0 are not eligible to apply.

3. Faculty/Employer Recommendations

Applicants are rated according to evaluations by faculty members and current and/or former employers

regarding the applicant's potential in the chosen health related profession.

4. Stated Reasons for Asking for the Scholarship and Stated Career Goals

Applicants must provide a brief written explanation of reasons for asking for the scholarship and of career goals. The applicant's narrative will be judged on how well it is written and content.

5. Applicants Who Are Closest to Graduation or Completion Are Awarded First

For example, senior and junior applicants under the Health Professions Pregraduate Scholarship receive funding before freshmen and sophomores.

E. Priority Categories

Regulation at 42 CFR 36.304 provide that the IHS shall, from time to time, publish a list of health professions eligible for consideration for the award of Health Professions Preparatory and Pregraduate Scholarships and Health Professions Scholarships. Section 104(b)(1) of the Indian Health Care Amendment of 1988, Public Law 100–713, authorizes the determination of specific health professions for which Indian Health Scholarships will be awarded. The lists of priority health professions that follow, by scholarship program, are based upon the needs of the IHS as well as upon the needs of the American Indians and Alaska Natives for additional service by specific health profession.

1. Health Professions Preparatory Scholarship Grant Program for Indians

(Below is the list of disciplines to be supported and priority is based on academic level: Sophomore, Freshman).

A. Pre-Accounting.
B. Pre-Engineering.
C. Pre-Medical Technology.
D. Pre-Nursing.
E. Pre-Pharmacy.
F. Pre-Physical Therapy.
G. Pre-Sanitation.

2. Health Professions Pregraduate Scholarship Grant Program

(Below is the list of disciplines to be supported and priority is based on academic level: Senior, Junior, Sophomore, Freshman).

A. Pre-Dentistry.
B. Pre-Medicine.

3. Indian Health Professions Scholarship Grant Program (Below is a list of disciplines to be supported and priority is based on academic level, unless specified: Graduate, Senior, Junior, Sophomore, Freshman)

A. Chemical Dependency Counseling: Masters level only.
B. Substance Abuse Services: Masters of Science In Management (MSM).
C. Clinical Psychology: PH.D. only.
D. Counseling Psychology: PH.D. only.
E. Computer Science: B.S.
F. Dental Hygiene: Associate and B.S.
G. Dentistry.
H. Dietician: B.S.
I. Engineering: B.S. Civil, Environmental and Mechanical.
J. Health Education: Masters level only.
K. Health Records: A.R.T. and R.R.T.
L. Medical Technology: B.S.
M. Medical Social Work: Masters level only.
N. Medicine: Allopathic and Osteopathic.
O. Nurse Practitioner: R.N.A., C.N.M. and F.N.P.
P. Nursing: A.D.N., B.S.N. and M.S.N. (Priority consideration will be given to Registered Nurses employed by the Indian Health Service; in a program assisted under a contract entered into under the Indian Self-Determination Act; or in a program assisted under a contract entered into under the Indian Self-Determination Act; or in a program assisted under title V of the Indian Health Care Improvement Act.)
Q. Optometry.
R. Pharmacy: B.S.
S. Physician Assistant: B.S.
T. Physical Therapy.
U. Public Health: M.P.H. only (Applicants must be enrolled or accepted in a school of public health and must have 2 years of health delivery experience.)
V. Public Health Nutrition: Masters level only.
W. Radiologic Technology.
X. Sanitarian: B.S. Environmental Health, Environmental Science and Occupational Safety and Health.
Y. Sonography.
Z. Accounting: B.S.
AA. Para-Optometric.

Interested individuals are reminded that the list of eligible health and allied health professions is initially effective for the applicants for the 1992–1993 academic year. These priorities will remain in effect until superseded. Applicants for health and allied health professions not on the above priority list are eligible to apply but will only be considered pending the availability of funds and dependent upon the availability of qualified applicants in the priority areas.

The Health Professions Preparatory Scholarship Grant Program is listed as No. 93.123 in the OMB Catalog of Federal Domestic Assistance (CFDA). The Health Professions Pregraduate Scholarship Grant Program is listed as No. 93.971, and the Indian Health Professions Scholarship Grant Program is listed as No. 93.972 in the CFDA.

Dated: January 21, 1992.

Everett R. Rhoades,

Assistant Surgeon General, Director.

[FR Doc. 92–9064 Filed 4–17–92; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N–92–3432]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information

submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: March 31, 1992.

John T. Murphy,

Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Draw Request and Accounting of 203(k) Rehabilitation Funds.
Office: Housing.
Description of the Need for the Information and its Proposed Use: Form HUD–9746A is used by homebuyers and contractors to request construction draws for rehabilitation work that has been completed. Form HUD–9746B is used by lenders who control the 203(k) Rehabilitation Escrow Account for the purchases of insured 203(k) loans. Form HUD–9746B is also prepared by the lender and provided to the homeowner and to HUD to account for the distribution of escrowed funds.
Form Number: HUD–9746A and HUD–9746B.
Respondents: Businesses or Other For-Profit.
Frequency of Submission: On Occasion.
Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–9746A	2,500		5		1.5		18,750
HUD–9746B	600		20		.5		6,000

Total Estimated Burden Hours: 24,750.
Status: Revision.
Contact: Kenneth L. Crandall, HUD, (202) 708–2720, Jennifer Main, OMB, (202) 395–6880.

Dated: March 31, 1992.

[FR Doc. 92–9026 Filed 4–17–92; 8:45 am]
BILLING CODE 4210–01–M

[Docket No. N–92–3431]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as requied by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESS: Interested persons are invited to submit comment regarding these proposals. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, rein statement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: March 20, 1992.

John T. Murphy,

Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Solicitation Mailing List Application.
Office: Administration.
Description of the Need for the Information and Its Proposed Use: This information will be used by potential sources to indicate their particular field(s) of expertise or interest. HUD will use this information to target the types of solicitations that organizations receive as a result of being placed on the Solicitation Mailing List.
Form Number: HUD–24010 and SF–129.
Respondents: Individuals or Households, State or Local Governments, Businesses or Other For-Profit, Non-Profit Institutions, and Small Businesses or Organizations.
Frequency of Submission: Other (Once).
Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Information collection	1,200		1		.17		200

Total Estimated Burden Hours: 200.
Status: Extension.
Contact: Gladys Gines, HUD, (202) 708–0294, Jennifer Main, OMB, (202) 395–6880.

Dated: March 20, 1992.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Application for Grant and Cooperative Agreement.
Office: Administration.
Description of the Need for the Information and Its Proposed Use: Potential recipients will respond to a Request for Application (RFA) in order to receive an award. After the award is granted, periodic reports are necessary to ensure that technical progress is satisfactory.
Form Number: SF–424, SF–269, SF–270, and SF–1199A.
Respondents: Individuals or Households, State or Local Governments, Businesses or Other For-Profit, Non-Profit Institutions, and Small Businesses or Organizations.
Frequency of Submission: Quarterly.
Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Information collection	500		4		40		80,000

Total Estimated Burden Hours: 80,000.
Status: Extension.
Contact: Gladys Gines, HUD, (202) 708–0294, Jennifer Main, OMB, (202) 395–6880.

Dated: March 20, 1992.

[FR Doc. 92–9029 Filed 4–17–92; 8:45 am]
BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–050–92–4333–11; NV5–92–38]

Nevada; Temporary Closure of Certain Public lands in the Las Vegas and Battle Mountain Districts for Management of the 1992 Pahrump Station "Nevada 500" Off-Highway Vehicle (OHV) Race

ACTION: Temporary closure of certain Public Lands in the Clark, Nye, and Esmeralda Counties, Nevada, on and adjacent to the 1992 "Nevada 500" race course, from May 15, 1992 through May 17, 1992. Access will be limited to race officials, entrants, law-enforcement and emergency personnel, licensed permittees and right-of-way grantees.

SUPPLEMENTARY INFORMATION: Certain public lands in the Las Vegas and Battle Mountain Districts, Clark, Nye, and Esmeralda Counties, Nevada will be temporarily closed to public access from 0001 hours, May 15, 1992, to 0300 hours, May 17, 1992, to protect persons, property, and public land resources on and adjacent to the 1992 "Nevada 500" OHV race course. The Las Vegas District Manager is the authorized officer for the 1992 "Nevada 500" OHV race and permit number (NV5–92–38). These temporary closures and restrictions are made pursuant to 43 CFR part 8364. The public lands to be closed or restricted are those lands adjacent to and including roads, trails and washes identified as the 1992 "Nevada 500" OHV race course.

The following public lands restricted or closed are described as: The Pahrump area, T. 20 S., R. 53 E., all of section 14; T. 20 S., R. 54 E., all of sections 3, 4, 7, 8, 9, and 18; T. 19 S., R. 54 E., all of sections 19, 20, 25, 26, 27, 28, 29, 34, 35, and 36; T. 19 S., R. 53 E., all of sections 1, 2, 3, 4, 5, 11, 12, 13, 14, 23, and 24; T. 18 S., R. 53 E., all of sections 6, 7, 18, 19, 29, 30, 32, 33, 34, and 35; the Johnnie area, T. 18 S., R. 52 E., all of sections 1, and 12; T. 17 S., R. 52 E., all of sections 4, 6, 9, 10, 21, 26, 27, 28, 35, and 36; the Point of Rocks area, T. 16 S., R. 52 E., all of sections 19, 20, 21, 28, and 33; T. 16 S., R. 51 E., all of sections 7, 16, 17, 18, 21, 22, 23, and 24; the Lathrop Wells area, T. 16 S., R. 50 E., all of sections 6, 7, 8, 9, 20, 11, and 12; T. 16 S., R. 49 E., all of sections 1, 2, 3, 4, 5, 9, 10, 11, and 12; T. 15 S., R. 49 E., all of sections 29, 30, 31, and 32; the Armagosa Farm Road area, T. 15 S., R. 48 E., all of sections 4, 9, 10, 14, 15, 23, 24, and 25; T. 14 S., R. 48 E., all of sections 29, 30, 31, and 32; T. 14 S., R. 47 E., all of sections 13, 14, 15, 19, 21, 22, 23, 24, 28, 29, 30, 32, and 33; T. 14 S., R. 46 E., all of sections 11, 12, 13, and 24; the Beatty area, T. 13 S., R. 47 E., all of sections 19, 29, 30, 31, and 32; T. 13 S., R. 46 E., all of sections 2, 3, 11, 12, 13, 23, 24, 26, and 35; the Bullfrog Hills area, T. 11 S., R. 47 E., all of sections 7, and 18; T. 11 S., R. 46 E., all of sections 1, 6, 7, 12, 13, 18, 19, 20, 24, 25, 26, 28, 29, 33, 34, and 35; the Sarcobatus Flats area, T. 10 S., R. 46 E., all of sections 7, 18, 19, 26, 27, 28, 29, 30, 31, 32, 33, 35, and 36; T. 10 S., R. 45 E., all of sections 1, 2, 12, 30, 31, 32, 33, 34, 35, and 36; T. 10 S., R. 44 E., all of sections 2, 3, 11, 13, 14, 24, and 25; T. 9 S., R. 45 E., all of sections 19, 20, 27, 28, 29, 34, and 35; T. 9 S., R. 44 E., all of sections 4, 5, 6, 7, 8, 9, 10, 14, 15, 16, 17, 20, 21, 23, 24, 27, 28, and 34; the Bonnie Claire area, T. 8 S., R. 44 E., all of sections 18, 19, 30, and 32; T. 8 S., R. 43 E., all of sections 1, 12, 13, 19, 20, 21, 23, 24, 25, 26, 27, 28, and 36; the Gold Point area, T. 8 S., R. 42 E., all of sections 3, 4, 10, 11, 13, 14, and 24; T. 7 S., R. 42 E., all of sections 31, 32, and 36; T. 7 S., R. 41½ E., all of sections 33, 34, 35, and 36; T. 7 S., R. 41 E., all of sections 2, 11, 14, 23, 24, 25, 26, 35, and 36; the Lida Valley area, T. 6 S., R. 41 E., all of sections 2, 3, 4, 7, 8, 9, 16, 17, 18, 21, 22, 27, 34, and 35; the Palmetto Mountains area, T. 5 S., R. 41 E., all of sections 2, 5, 6, 10, 11, 14, 15, 23, 24, 25, 26, and 35; T. 4 S., R. 41 E., all of sections 28, 29, 31, 32, and 33; T. 4 S., R. 40½ E., all of sections 31, 32, and 33; T. 4 S., R. 40 E., all of sections 3, 4, 9, 10, 15, 16, 21, 22, 23, 24, 25, 26, and 31; the Clayton area, T. 3 S., R. 40 E., all of sections 19, 29, 30, and 32; T. 3 S., R. 39 E., all of sections 2, 4, 8, 9, 11, 12, 13, 17, 19, 20, 24, and 30; the Silver Peak Range area, T. 2 S., R. 39 E., all of sections 1, 2, 3, 10, 11, 14, 15, 22, 27, 33, 34, and 35; T. 3 S., R. 38 E., all of sections 25, 30, 31, 32, 35, and 36; T. 4 S., R. 38 E., all of sections 2, 4, 5, 9, 10, and 11; T. 3 S., R. 37 E., all of sections 20, 21, 22, 23, 24, 25, 28, 32, and 33; T. 4 S., R. 37 E., all of sections 4, 5, 8, 9, 16, 19, 20, and 21; the Dyer area, T. 4 S., R. 36 E., all of sections 3, 4, 10, 14, 15, 23, and 24; T. 3 S., R. 36 E., all of sections 7, 18, 19, 20, 29, 32, and 33; T. 3 S., R. 35 E., all of sections 1, 2, and 12; the Fish Lake Valley area, T. 2 S., R. 35 E., all of sections 25, 35, and 36; T. 2 S., R. 36 E., all of sections 3, 4, 9, 17, 18, 19, 20, 29, and 30; T. 1 S., R. 36 E., all of sections 1, 14, 15, 22, 23, 24, 27, 33, and 34; T. 1 N., R. 36 E., all of section 36; the Emigrant Pass area, T. 1 S., R. 37 E., all of sections 6, 7, 8, 17, 19, and 20; T. 1 N., R. 37 E., all of sections 10, 11, 12, 15, 20, 21, 22, 29, and 30; the Old Railroad Grade area, T. 1 N., R. 38 E., all of sections 7, 8, 16, 17, 21, 22, 25, and 26; T. 1 N., R. 38½ E., all of sections 30, 31, 32, and 33; T. 1 S., R. 39 E., all of sections 3, 10, 15, 22, 26, 27, 34, 35, and 36; the Weepah Hills area, T. 1 S., R. 40 E., all of sections 4, 5, 8, 9, 17, 19, 20, 30, and 31; T. 1 N., R. 39 E., all of sections 1, 12, 13, 23, 24, 26, 27, and 35; T. 1 N., R. 40 E., all of sections 1, 3, 4, 6, 10, 11, and 12; T. 1 N., R. 41 E., all of sections 4, 5, and 6; the Tonopah area, T. 2 N., R. 41 E., all of sections 13, 23, 24, 26, 27, 33, and 34; T. 2 N., R. 42 E., all of sections 1, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 24, 25, and 26; T. 2 N., R. 43 E., all of sections 30, 31, and 32; T. 1 N., R. 42 E., all of sections 35, and 36; T. 1 N., R. 43 E., all of sections 5, 7, 8, 18, 19, 30, and 31; the Goldfield area, T. 1 S., R. 42 E., all of sections 1, 11, 12, 14, 23, 26, and 35; T. 2 S., R. 42 E., all of sections 2, 11, 14, 23, 26, and 35; T. 3 S., R. 42 E., all of sections 1, and 2; T. 3 S., R. 43 E., all of sections 6, 7, 18, 19, 30, and 31; T. 4 S., R. 43 E., all of sections 6, 7, 8, 17, 18, 19, 30, and 31; the Cottontail Ranch area, T. 5 S., R. 43 E., all of sections 6, 7, 8, 17, 18, 19, 20, 30, and 31; T. 6 S., R. 43 E., all of section 6; T. 6 S., R. 42 E., all of sections 1, 12, 13, 24, 25, 26, 35, and 36; the Scotty's Junction area, T. 7 S., R.

43 E., all of sections 4, 5, 6, 9, 17, 20, 21, 25, 26, 27, 28, 34, 35 and 36.

The above legal land descriptions are for public lands within Clark, Nye and Esmeralda Counties, Nevada. A map showing specific areas closed to public access is available from the following BLM office: The Las Vegas District Office, 4765 Vegas Drive, P.O. Box 26569, Las Vegas, Nevada 89126, (702) 647–5000, and the Battle Mountain District, Tonopah Resource Area Office, Bldg., 102 Old Radar Base, P.O. Box 911, Tonopah, Nevada 89049, (702) 482–6214. Any person who fails to comply with this closure order issued under 43 CFR part 8364 may be subject to the penalties provided in 43 CFR 8360.7.

Dated: April 3, 1992.

Ben F. Collins,

District Manager, Las Vegas District.

[FR Doc. 92–8999 Filed 4–17–92; 8:45 am]

BILLING CODE 4310–HC–M

[OR–050–4410–10:GP2–207]

Prineville District; Grazing Advisory Board Meeting

April 10, 1992.

There will be a meeting of the Prineville District, Bureau of Land Management, Grazing Advisory Board on Thursday, May 21, 1992. The meeting will start at 10:00 AM in the district's conference room located at 185 E. Fourth Street, Prineville, Oregon. The agenda will include:

1. The drought—resource conditions, effects on permittees
2. Status of rangeland projects
3. Status of allotment evaluations
4. River planning update
5. Coordinated Resource Management planning update

The meeting is open to the public. Please call Ron Halvorson at (503) 447–8736 for more information.

James L. Hancock,

District Manager, Prineville District Office.

[FR Doc. 92–9051 Filed 4–17–92; 8:45 am]

BILLING CODE 4310–33–M

[AZ–050–4760–02; 1784]

Yuma District Advisory Council Meeting; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Yuma District Advisory Council meeting.

FOR FURTHER INFORMATION CONTACT: Jeanette Davis, Public Affairs Officer, Yuma District Office, 3150 Winsor Avenue, Yuma, Arizona 85365, (602) 726–6300.

SUPPLEMENTARY INFORMATION: A meeting of the Yuma District Advisory Council will be held Monday, May 12, 1992, 10:30 a.m. to 3:30 p.m., at Havasu Springs, Highway 95, Parker, Arizona. The agenda will include: (1) Planet Ranch, (2) Rock House Boat Ramp, (3) Wilderness Area Management, and (4) Lake Havasu Fisheries Improvement Project

Following the meeting, members will participate in a field tour of the Planet Ranch. The public is invited to attend the meeting and the field trip, but must provide their own transportation.

Summary minutes of the meeting will be maintained in the Yuma District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

Dated: April 10, 1992.

Mervin G. Boyd,

Acting District Manager.

[FR Doc. 92–9001 Filed 4–17–92; 8:45 am]

BILLING CODE 4310–32–M

Bureau of Reclamation

Trinity River Basin Fish and Wildlife Task Force

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of a meeting of the Trinity River Basin Fish and Wildlife Task Force.

DATES: The meeting will begin on Wednesday, June 10, 1992, at 8 a.m. and reconvene on Thursday, June 11, 1992 at 9 a.m.

ADDRESSES: The meeting will begin at the U.S. Bureau of Reclamation, Trinity River Basin Field Office, Weaverville, California, on June 10, 1992, and at the Victorian Inn, 1709 Main Street 299 West, Weaverville, California, on June 11, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Chip Bruss, Trinity River Task Force Secretary, Bureau of Reclamation, MP–720, 2800 Cottage Way, Sacramento, CA 95825; Telephone: (916) 978–4956.

SUPPLEMENTARY INFORMATION: Task Force members will be given a field trip to view progress on fish habitat improvements on the mainstem of the Trinity River on June 10, 1992. On June 11, 1992, the Task Force members will be briefed on long-term action plan revisions. The meeting of the Task Force is open to the public. Any member of the public may file a written statement with the Task Force before, during, or after the meeting, in person or by mail. To the extent that time permits, the Task Force chairman may allow public presentation of oral statements at the meeting.

Dated: April 10, 1992.

Donald R. Glaser,

Director, Denver Office.

[FR Doc. 92–9042 Filed 4–17–92; 8:45 am]

BILLING CODE 4310–09–M

Fish and Wildlife Service

Intent to Prepare an Environmental Impact Statement on the Experimental Reintroduction of Mexican Wolves (Canis lupus baileyi) into Suitable Habitat within the Historic Range of the Subspecies

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Fish and Wildlife Service (FWS) intends to gather information necessary for the preparation of an Environmental Impact Statement (EIS) for the proposed experimental reintroduction of captive-reared Mexican wolves (*Canis lupus baileyi*) into suitable habitat on one of five sites currently under consideration in New Mexico and Arizona. Considerable information already has been gathered from public meetings held in Las Cruces, New Mexico, and Tucson, Arizona, in February 1991 and from letters received during the written comment period following those meetings. Additional public meetings regarding this proposal and preparation of the EIS will be held. This notice is being furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1501.7) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are solicited.

DATES: Written comments should be received by June 19, 1992. Public meetings will be held in Albuquerque, New Mexico, on May 20, 1992, and in Tucson, Arizona, on May 27, 1992.

ADDRESS: Comments should be addressed to: Regional Director, ATTN: Mexican Wolf EIS, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103.

The public meeting on May 20, 1992, will be held at 6:30 p.m. at the University of New Mexico Continuing

Education Conference Center, 1634 University Boulevard in Albuquerque, New Mexico. The conference center is located north of the University of New Mexico campus on the east side of University Boulevard between Indian School Road and Menaul Boulevard near the intersection of I–25 and I–40.

The public meeting on May 27, 1992, will be held at 6 p.m. at the Doubletree Hotel, 445 S. Alvernon Way in Tucson, Arizona. The Doubletree Hotel is located north of I–10 about midway between 22nd Street and Broadway on the east side of Alvernon Way.

FOR FURTHER INFORMATION CONTACT: David R. Parsons, Mexican Wolf Recovery Coordinator, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico, 87103 (505/766–2914).

SUPPLEMENTARY INFORMATION: David R. Parsons is the primary author of this document.

The Fish and Wildlife Service (FWS), Department of the Interior, proposes to continue implementation of the Mexican Wolf Recovery Plan by initiating the re-establishment of wild Mexican wolf populations within the historic range of the subspecies in the United States. The proposed action is the experimental release of Mexican wolves on one of five sites in New Mexico and Arizona currently under consideration and the subsequent monitoring, evaluation, and management of the reintroduced population. In accordance with section 10(j) of the Endangered Species Act of 1973 as amended (ESA), the reintroduced population would be designated experimental and not essential to the continued existence of the species. The objectives of this proposal are to: (1) Establish and maintain a wild population of Mexican wolves on the target release area, (2) develop proven re-establishment techniques, and (3) enhance understanding of the biology and ecology of Mexican wolves in a wild setting. Data, information and experience obtained from the experimental release will be used to formulate plans for future releases of Mexican wolves needed to reach recovery objectives established in the Mexican Wolf Recovery Plan. Sites other than the five described herein will be evaluated and considered for future releases.

The Mexican wolf is officially listed as an endangered species under provisions of the ESA. Section 4(f) of the ESA requires the development and implementation of recovery plans for the conservation and survival of endangered species. The FWS approved the Mexican Wolf Recovery Plan in 1982. The stated recovery objective is to conserve and ensure survival of the Mexican wolf by maintaining a captive breeding program and re-establishing a viable, self-sustaining population of at least 100 Mexican wolves within the wolf's historic range.

A captive breeding program was established in the 1970's with five wild-caught male Mexican wolves (from Durango and Chihuahua, Mexico) and one wild-caught pregnant female wolf (from Durango, Mexico). The female was captured in 1978 and produced a litter of one female and four male pups that year, after being placed in captivity. The female pup died at the age of four days. Due to the shortage of females during the early years of the captive breeding program, only two of the five wild-caught males sired pups. Thus, counting the uncaptured mate of the pregnant female, the founding base of the captive population comprises four wild Mexican wolves, all of Mexican origin. The captive population has increased to 43 wolves—32 at nine facilities in the United States and 11 at three facilities in Mexico. This population is currently being managed for maximum reproduction to support the proposed experimental reintroduction and future reintroductions (if deemed appropriate). Having established a captive breeding program for Mexican wolves, planning for the re-establishment of wild populations is now warranted.

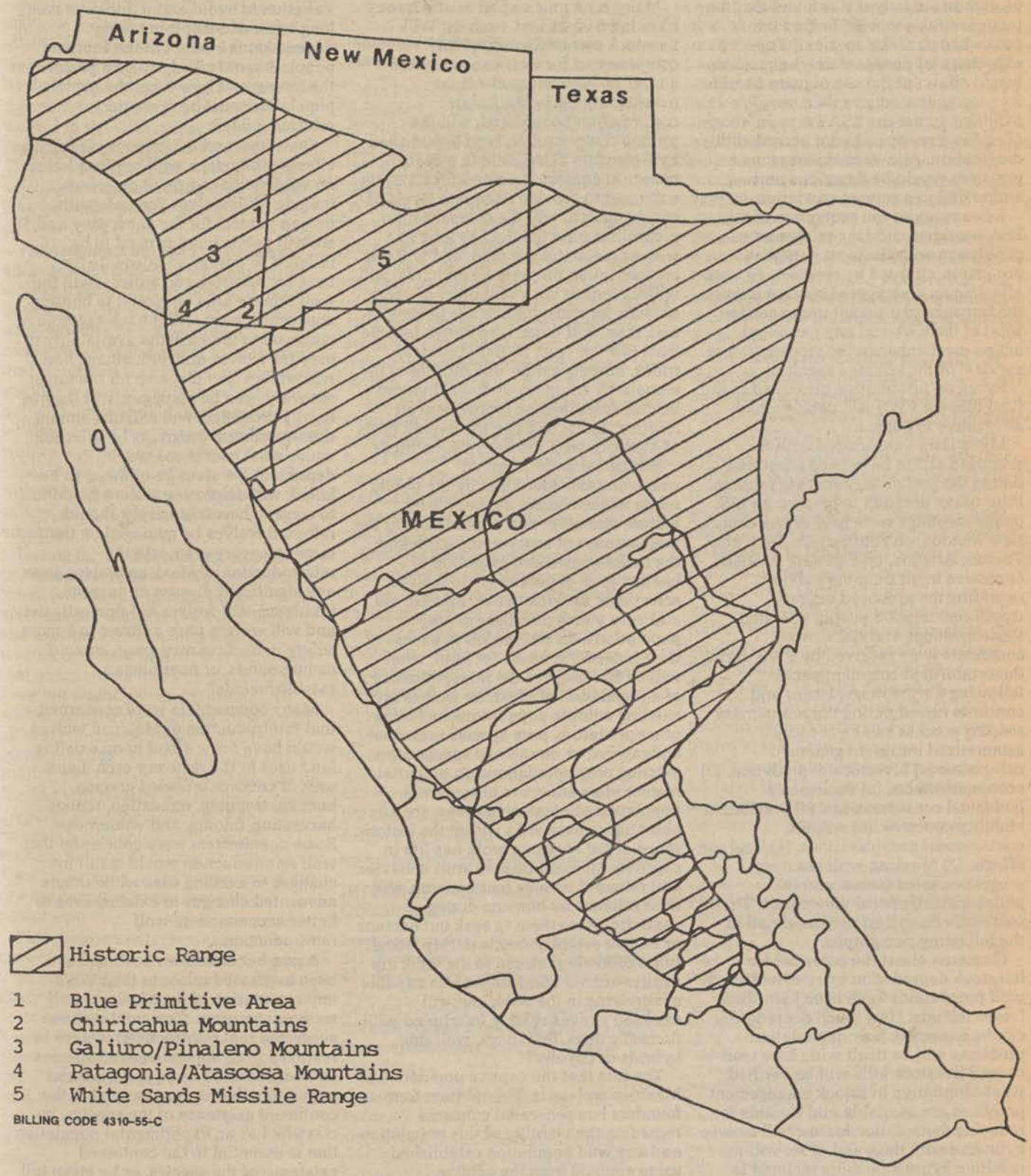
The process of selecting a site for the proposed experimental release began in 1986 when the FWS solicited site nominations from the state fish and wildlife agencies of New Mexico, Arizona and Texas. This process resulted in the identification of five potential sites (see map). These are the Blue Primitive Area (area 1), the Chiricahua Mountains (area 2), the Galiuro and Pinaleno Mountains (area 3), and the Patagonia and Atascosa Mountains (area 4) all in southeastern Arizona; and the San Andres and Oscura Mountains (area 5) within the boundary of the White Sands Missile Range in south-central New Mexico. To date, only the San Andres/Oscura Mountains have been evaluated. Evaluations of the four sites in Arizona are near completion. Results of the five site evaluations will be analyzed by an interagency technical group. Sites will be compared on the basis of criteria that relate to their suitability for an experimental release of Mexican wolves, and a preferred site will be selected. The EIS will provide details of the site selection process and address an array of alternative actions for the preferred site.

Alternative actions to be considered in the EIS, which have been identified to date, include: (1) No action; (2) reintroduction of wolves as an experimental-nonessential population; and (3) reintroduction of wolves under full protection of the ESA.

Under the no action alternative wolves would not be released into the wild. The captive population would be maintained, if feasible and justifiable.

BILLING CODE 4310-55-M

MEXICAN WOLF
Canis lupus baileyi



Historic Range

1 Blue Primitive Area
2 Chiricahua Mountains
3 Galiuro/Pinaleno Mountains
4 Patagonia/Atascosa Mountains
5 White Sands Missile Range

BILLING CODE 4310-55-C

Release as an experimental-nonessential population would utilize the provisions of section 10(j) (Experimental Populations) of the ESA. The release of an experimental population of an endangered species can be authorized only if it is found that the proposed release will "further the conservation of the species." The experimental-nonessential designation would allow for the use of more flexible management practices than are available under the ESA for populations of endangered species not accorded this designation. Allowable management practices would be described and authorized in a special regulation.

Release under full protection of the ESA would provide the reintroduced population with the most stringent protection afforded by the ESA. Actions affecting an endangered species require the issuance of a permit under section 10(a) of the ESA and any permitted action must enhance the propagation or survival of the affected species.

Based on information presented in the final EIS, the FWS will decide which alternative to pursue.

Many issues associated with the proposed action have been identified during the preliminary scoping process. Prior to the decision to prepare an EIS, public meetings were held in Las Cruces, New Mexico, on February 25, 1991, and Tucson, Arizona, on February 27, 1991, to receive input from the public regarding the proposed action. Approximately 675 people attended those meetings and 492 written comments were received by FWS during the established comment period following the meetings. Issues and concerns raised during the preliminary scoping process can be broadly summarized into eight general categories: (1) Livestock depredation, (2) economic effects, (3) ecological/biological considerations, (4) population viability concerns, (5) wildlife management considerations, (6) land use effects, (7) Mexican wolf recovery program-related issues, and (8) philosophical/ethical viewpoints. These issues are described in more detail in the following paragraphs.

Concerns about the potential for livestock depredation by re-established wolf populations have been identified. Issues include: How much depredation can be expected; how depredation problems will be dealt with; how wolf-caused livestock kills will be verified; what alternative livestock management practices are available and feasible for reducing depredation losses; will wolves hybridize with dogs and, if so, will the resulting hybrids be more inclined to prey on livestock; will wolves displace other predators (e.g., coyotes and mountain lions) from their existing territories and, if so, will increased depredation result; and will livestock owners have the legal right to kill a wolf in order to protect their property?

Many economic concerns and issues have been identified, such as: Will livestock owners be monetarily compensated for wolf-caused losses and, if so, who will make these determinations, will absolute confirmation be required, will the private compensation fund established by Defenders of Wildlife (a private nonprofit conservation organization) be sufficient to provide adequate levels of compensation, will the compensation program remain in effect as long as wolves remain in the wild, and will the compensation program be effective; will wolves reduce the availability of game animals for consumptive use by people and, if so, will those who derive income from this use (e.g., Native American tribes, hunting guides and outfitters) be monetarily compensated; will hunting license sales decline following wolf reintroduction; and can the overall costs of Mexican wolf recovery be justified?

Ecological and biological considerations identified by the public relate to such issues as the role of wolves and other native predators in the maintenance of ecosystem health and the maintenance and evolution of healthy prey populations; do wolves select only the sick, weak, injured, old, and very young members of prey populations; do wolves kill in excess of their immediate needs for food; what will be the effect of the re-establishment of a population of Mexican wolves on existing wildlife populations including other predators, prey species and other endangered or threatened species; are existing prey populations on potential release sites adequate to support a population of Mexican wolves; are all potential release sites within the historic range of the Mexican wolf; has life in captivity altered Mexican wolf behavior; will released wolves fear humans, will their reliance on humans during captivity cause them to seek out humans or human establishments during "tough" times following release to the wild; are captive-reared Mexican wolves capable of surviving in the wild; and will released wolves readily interbreed with domestic dogs, feral dogs, wolf-dog hybrids or coyotes?

The fact that the captive population of Mexican wolves is derived from four founders has generated concerns regarding the viability of this population and any wild population established using animals from the captive population. Concerns have been raised regarding the genetic purity of the captive population; the genetic distinctiveness of the Mexican wolf, that is, is it genetically different from other wolves; whether the captive population of Mexican wolves has sufficient genetic variation to avoid extinction over the long term; whether inbreeding depression is evident in the captive population or is likely to be a problem in the future; and how large the captive population must be to support reintroduction?

Questions and concerns regarding the effects of Mexican wolf reintroduction on wildlife management programs include: Will wolves compete with human hunters for the same prey and, if so, will public hunting need to be reduced to ensure an adequate prey base for reintroduced wolves; will the wolf release area be closed to hunting and/or trapping; will the release area be managed to increase the availability of prey for wolves and/or humans; how will wolves that disperse off the target recovery area be managed; will they be legally protected; will existing animal damage control programs be affected; under what conditions would depredating wolves be allowed to be killed; will dispersing wolves be difficult to control; how intensively should released wolves be managed on the target recovery area; will the reintroduction of Mexican wolves pose any significant disease or parasite problems; will wolves kill domestic pets; and will wolves pose a threat to human safety in backcountry areas, around campgrounds, or near human establishments?

Many commenters were concerned that reintroduction of Mexican wolves would have some effect upon existing land uses in the recovery area. Land uses of concern included grazing, hunting, trapping, recreation, timber harvesting, mining, and wilderness. Some commenters were concerned that wolf reintroduction would result in changes to existing uses while others advocated changes to existing uses to better accommodate wolf reintroduction.

A number of concerns which have been expressed relate to the FWS's implementation of the Mexican wolf recovery program. Commenters have suggested that reintroduced wolves be removed from the endangered species list, be classified as an experimental population that is nonessential to the continued existence of the species, be classified as an experimental population that is essential to the continued existence of the species, or be given full protection as endangered species; that

recovery be limited to maintenance of a captive population kept in zoos; that release sites in Mexico be considered; that additional sites within the U.S. portion of the historic range (particularly in Texas and New Mexico) be considered; that the initial release take place on more than one site; that the experimental release be conducted in large fenced enclosures on sites in Arizona, New Mexico and Mexico; that the recovery plan objective of 100 wolves in the wild is insufficient to ensure the continued survival of Mexican wolves in the wild; and that existing law enforcement capabilities may be inadequate to protect released wolves.

Philosophical and ethical concerns address such issues as whether or not wolves have a right to exist and, if so, does this imply a right to exist in the wild; whether or not wildlife conservation is important to preserving the "American way of life" or, stated another way, our heritage; whether or not wild lands should be conserved; whether or not the presence of Mexican wolves would enhance the outdoor experience; and whether or not Mexican wolves have existence or intrinsic values, even if not heard or seen by humans.

During the formal scoping process following the release of this Notice of Intent (which will include public meetings in Albuquerque, New Mexico, and Tucson, Arizona, and a formal written comment period) it is requested that commenters focus on issues that have not already been identified. All written comments received to date and all oral comments presented at the public meeting held on February 25, 1991, in Las Cruces, New Mexico, are on file and will be fully considered prior to preparation of the draft EIS. Oral comments presented at the public meeting held on February 27, 1991, in Tucson, Arizona, were not recorded due to a malfunction in the recording equipment.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 *et seq.*), NEPA Regulations (40 CFR parts 1500–1508), other appropriate Federal regulations, and FWS procedures for compliance with those regulations.

We estimate the draft EIS will be made available to the public by March 1993.

Dated: April 9, 1992.

James A. Young,

Acting Regional Director, Region 2, U.S. Fish and Wildlife Service.

[FR Doc. 92–9024 Filed 4–17–92; 8:45 am]

BILLING CODE 4310–55–M

Issuance of Permit for Marine Mammals

On February 11, 1992, a notice was published in the **Federal Register**, Vol. 57, No. 28, Page 5009, that an application had been filed with the Fish and Wildlife Service by U.S. Fish and Wildlife Service, Alaska Fish and Wildlife Research Center (PRT–690715) for a permit to take walrus for research purposes in the Bering Sea.

Notice is hereby given that on March 25, 1992, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Fish and Wildlife Service issued the requested permit subject to certain conditions set forth therein.

The permit documents themselves are available for public inspection by appointment during normal business hours (7:45–4:15) at the Fish and Wildlife Service's Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 (703/358–2104).

Other information in permit file is available under the Freedom of Information Act to any person who submits a written request to the Service's Office of Management Authority at the above address, in accordance with procedures set forth in Department of the Interior regulations, 43 CFR part 2.

Dated: April 14, 1992.

Susan Jacobsen,

Acting Chief, Branch of Permits, Office of Management Authority

[FR Doc. 92–9025 Filed 4–17–92; 8:45am]

BILLING CODE 4310–55–M

INTERNATIONAL TRADE COMMISSION

Investigations Nos. 701–TA–314 through 317 (Preliminary), and Investigations Nos. 731–TA–552 through 555 (Preliminary)

Certain Hot-Rolled Lead and Bismuth Carbon Street Products From Brazil, France, Germany, and the United Kingdom

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of preliminary countervailing duty and antidumping investigations.

SUMMARY: The Commission hereby gives notice of the institution of preliminary countervailing duty investigations Nos. 701–TA–314 through 317 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil, France, Germany, and the United Kingdom of certain hot-rolled lead and bismuth carbon steel products; [1] provided for in subheadings 7213.20.00, 7213.31.30, 7213.31.60, 7213.39.00, 7214.30.00, 7214.40.00, 7214.50.00, 7214.60.00 and 7228.30.80 of the Harmonized Tariff Schedule of the United States (HTS),[2] [3] that are alleged to be subsidized by the Governments of Brazil, France, Germany, and the United Kingdom.

The Commission also gives notice of the institution of preliminary antidumping investigations Nos. 731–TA–552 through 555 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil, France, Germany, and the United Kingdom of certain hot-rolled lead and bismuth carbon steel products,[1] provided for in subheadings 7213.20.00, 7213.31.30, 7213.31.60, 7213.39.00, 7214.30.00, 7214.40.00, 7214.50.00, 7214.60.00 and 7228.30.80,[2] [3] that are alleged to be sold in the United States at less than fair value.

As provided in sections 703(a) and 733(a) of the Tariff Act, the Commission must complete preliminary countervailing duty and antidumping

[1] For purposes of these investigations, the subject hot-rolled lead and bismuth carbon steel products are hot-rolled products of nonalloy or other alloy steel, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Flat-rolled carbon steel products are not included in these investigations.

[2] Large hot-rolled lead and bismuth carbon steel bars may also enter under the following HTS subheadings for semi-finished steel products: 7207.11.00, 7207.12.00, 7207.19.00, 7207.20.00 and 7224.90.00.

[3] For tariff purposes hot-rolled steel products containing 0.4 percent or more by weight of lead and/or 0.1 percent or more by weight of bismuth are classified as being of other alloy steel; these investigations include such goods and are provided for in HTS subheading 7228.30.80. For purposes of these investigations, the petition has described these goods of "other alloy steel" as being of "carbon steel."

investigations in 45 days, or in this case by May 28, 1992.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: April 13, 1992.

FOR FURTHER INFORMATION CONTACT: Diane J. Mazur (202–205–3184), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to a petition filed on April 13, 1992, by Inland Steel Industries, Inc., including Inland Steel Bar Co., Chicago, IL; and the Bar, Rod and Wire Division, Bethlehem Steel Corp., Johnstown, PA.

Participation in the Investigations and Public Service List

Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven (7) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) under an Administrative Protective Order (APO) and BPI Service list.

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these preliminary investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made not later than seven (7) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on May 4, 1992, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Diane Mazur (202–205–3184) not later than April 30, 1992, to arrange for their appearance. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before May 7, 1992, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: There investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules.

Issued: April 14, 1992.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 92–9040 Filed 4–17–92; 8:45 am]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Lodging of Final Judgment by Consent Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, and section 122 (d), (g), and (i) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9622 (d), (g), and (i), notice is hereby given that on April 9, 1992, a proposed consent decree and a proposed partial consent decree in *United States* v. *Apache Energy & Mineral Company, et al.*, Civil Action No. 86–C–1675, were lodged with the United States District Court for the District of Colorado.

The proposed consent decree with defendant Robert L. Elder is a *de minimis* landowner settlement pursuant to section 122(g)(1)(B) of CERCLA, 42 U.S.C. 9622(g)(1)(B), and resolves his alleged liability to the United States based on his ownership of patented mining claims, which he inherited, and which lie within the boundaries of the California Gulch Superfund Site. The decree requires the defendant to grant access to the United States and others performing response actions under the United States' oversight, file a notice sufficient to notify subsequent purchasers of defendant's property that his property is subject to the consent decree, and continue to exercise due care with respect to the hazardous substances at the Site. The decree also provides that, subject to the reservation of certain rights, the United States covenants not to sue or take any other civil or administrative action against the defendant for any and all civil liability for reimbursement of response costs incurred by the United States or for injunctive relief, pursuant to sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a), arising from conditions existing at the Site as of the date of entry of the decree.

The proposed partial consent decree with defendant Hecla Mining Company ("Hecla") provides for the United States to recover $450,000 in past response costs in exchange for a resolution of all of the United States' section 106 and 107(a) CERCLA claims against Hecla related to the Site, except for those claims related to the Malta Gulch tailings and for any natural resource damages.

The Department of Justice will receive comments relating to the proposed consent decree with Robert L. Elder and the proposed partial consent decree with Hecla for a period of thirty (30) days from the date of this publication. Comments on either of these decrees should be addressed to the Assistant Attorney General, Environment & Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Apache Energy and Mineral Company, et al.*, DOJ Ref. 90–11–3–138.

Copies of the proposed consent decrees may be examined at the Office of the United States Attorney, District of Colorado, 633 17th Street, suite 1600,

Denver, Colorado 80202. Copies of the proposed consent decrees may also be examined or obtained by mail at the Environmental Enforcement Document Center, 601 Pennsylvania Avenue NW., Washington, DC 20004 (202–347–7829). When requesting a copy of the proposed consent decrees, please enclose a check in the amount of $3.75 for the consent decree with Robert L. Elder and $4.75 for the proposed partial consent decree with Hecla (twenty-five cents per page reproduction costs) payable to the "Consent Decree Library."

John C. Cruden,

Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 92–9000 Filed 4–17–92; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree

In accordance with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that a complaint was filed on August 22, 1989, in the *United States* v. *MPM Contractors, Inc., and W.A. Michaelis,* Civil Action No. 89–2371–0 in the United States District Court for the District of Kansas, alleging that in 1988, MPM Contractors, Inc., an asbestos removal contractor, improperly removed and disposed of asbestos at three locations in Kansas: (1) Chandler Hall, Pittsburg State University, Pittsburg, Kansas, (2) Quivera Heights Junior High School, Holyrood, Kansas, and (3) the Wolcott Building, Hutchinson, Kansas. The complaint further alleged that defendant MPM failed to ensure that the friable asbestos material removed from the sites remained wet until collected for disposal in violation of the Act and the asbestos NESHAP. Defendant W.A. Michaelis, the owners of the Wolcott Building, resolved his liability with the United States in a partial consent decree filed August 22, 1990 and is no longer a party to this action. On March 15, 1991, the United States filed its First Amended Complaint, adding defendant Michael P. McGill, individually ("McGill") as the alter ego of MPM, and Asbestos Removal Contractors, Inc. ("ARC") as the successor-in-interest to MPM. On April 1, 1992, a Partial Consent Decree between the United States and defendants MPM Contractors, Inc., Michael P. McGill, individually, and Asbestos Removal Contractors, Inc. was lodged with the court.

Under the terms of the proposed Partial Consent Decree, the defendants agree to (a) discontinue actual asbestos removal, (b) surrender all corporate asbestos licenses (c) refrain from actual asbestos removal for the term of the consent decree (three years), (d) dismiss all appeals of civil and administrative law actions, state and federal, and (e) waive any and all claims against the State of Kansas, the United States, and their employees. The Consent Decree also calls for the defendants to pay the United States thirty thousand dollars ($30,000.00) in penalty, jointly and severally.

Notice is additionally hereby given that an additional complaint was filed on September 26, 1990, in *United States* v. *MPM Contractors, Inc.,* Civil Action No. 90–2341–0 in the United States District Court for the District of Kansas, alleging that in 1989 MPM improperly removed and disposed of friable asbestos at the Almena Grade/High School, Almena, Kansas. On April 1, 1992, a Consent Decree between the United States and defendant MPM Contractors, Inc, was lodged with the court.

Under the terms of the proposed Consent Decree, identical to those negotiated in the earlier case, the defendant agrees to (a) discontinue actual asbestos removal, (b) surrender all corporate asbestos licenses, (c) refrain from actual asbestos removal for the term of the consent decree (three years), (d) dismiss all appeals of civil and administrative law actions, state and federal, and (e) waive any and all claims against the State of Kansas, the United States, and their employees. The consent decree also calls for the defendant to pay the United States thirty thousand dollars ($30,000.00) in penalty. Payment of the penalty in Civil Action No. 89–2371–0, will satisfy the penalty provision in Civil Act No. 90–2341–0.

The Department of Justice will receive comments relating to the proposed Consent Decrees for a period of 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, 10th and Pennsylvania Avenue, NW., Washington, DC 20530. All comments should refer to either or both *United States* v. *MPM Contractors, Inc., W.A. Michaelis, Michael P. McGill, individually, and Asbestos Removal Contractors, Inc.,* Civil Action No. 89–2371–0 and/or *United States* v. *MPM Contractors, Inc.,* Civil Action No. 90–2341–0, D.J. Ref. No. 90–5–2–1–1385.

The proposed Consent Decrees may be examined at the following offices of the United States Attorney and the Environmental Protection Agency:

EPA Region VI

Contact: Henry Rompage, Office of Regional Counsel, U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 551–7280.

United States Attorney's Office

Assistant United States Attorney, Civil Division, U.S. Courthouse & Federal Building, 812 N. 7th Street, room 412, Kansas City, Kansas 66101.

Copies of the proposed Consent Decrees 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 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 in the amount of $5.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 92–9050 Filed 4–17–92; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Partial Consent Decrees for Claims Under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Department policy and 28 CFR 50.7, notice is hereby given that on March 30, 1992, three proposed Partial Consent Decrees in *United States* v. *Smuggler-Durant Mining Corporation, et al.,* Civil Action No. 89–C–1802, were lodged with the United States District Court for the District of Colorado. The Complaint in this case was brought under section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9607(a), against several parties who own and operate facilities at which hazardous substances have been released into the environment, or who owned and operated facilities at a time when hazardous substances were disposed of there. The United States' Complaint sought recovery of costs incurred and to be incurred by the United States in connection with the clean up of hazardous wastes at the Smuggler Mountain Superfund Site in Aspen, Colorado.

The proposed Partial Consent Decrees involve the Hunter Creek Management, Inc.; Smuggler Limited; and World Class Housing, Inc., Centennial-Aspen

Partnership, and Centennial-Aspen II Partnership (collectively "Centennial"). These decrees settle claims brought by the United States against private party defendants under section 107(a) of CERCLA, resolve the Environmental Protection Agency's administrative claims against the Department of Interior, and resolve potential private party contribution claims under section 113 of CERCLA which could have been asserted against the Department of Interior by private party defendants. The decrees provide for payment of past and future response costs as follows: Hunter Creek Management—$40,000; Smuggler Limited—$5,375; and Centennial—$35,922. Additionally, Centennial will perform remedial work on their property estimated to be worth $63,000.

The Department of Justice will receive for a period of thirty (30) days from the date of entry of this publication comments relating to the proposed Partial Consent Decrees. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States v. Smuggler-Durant Mining Corporation, et al.*, DOJ Ref. No. 90-11-2-174.

The proposed Partial Consent Decrees may be examined at the Offices of the United States Attorney, suite 1200, 1961 Stout Street, Denver, Colorado 80294 and at the Region VIII Office of the Environmental Protection Agency, 999 18th Street, suite 500, Denver, Colorado 80202. Copies of the proposed Partial Consent Decrees may also be examined at or obtained by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Ave., NW., Box 1097, Washington, DC 20004 (202-347-7829). When requesting a copy of the consent decree by mail, please enclose a check in the amount of: $8.25 for the Hunter Creek Management, Inc., Decree; $7.25 for the Smuggler Limited Decree; or $25.25 for the World Class Housing, Inc., Centennial-Aspen Partnership, and Centennial-Aspen II Partnership joint Decree (twenty-five cents per page reproduction costs) payable to the "Consent Decree Library."

Roger B. Glegg,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 92-9028 Filed 4-17-92; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: May 13, 1992, 10 a.m.—12 noon, Rm. S-4215 A&B, Department of Labor Building, 200 Constitution Ave., NW., Washington, DC 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 522(c)(1). The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

For further information, contact: Fernand Lavallee, Director, Trade Advisory Group, Phone: (202) 523-2752.

Signed at Washington, DC this 14th day of April 1992.

Shellyn G. McCaffrey,

Deputy Under Secretary, International Affairs.

[FR Doc. 92-9095 Filed 4-17-92; 8:45 am]

BILLING CODE 4510-28-M

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of April 1992.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-26,784; Hastings Manufacturing Co., Hastings, MI

TA-W-26,813; Magnetek Louis Allis, Milwaukee, WI

TA-W-26,734; The Jefferson Mills, Inc., Jefferson, GA

TA-W-26,683; Barrett and Blandford, Inc., Eatontown, NJ

TA-W-26,848; Walker Forge, Inc., Racine, WI

TA-W-26,677; Smith Victor Corp., Griffith, IN

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-26,898; State Manufacturing Co., Inc., New Philadelphia, PA

Defense Appropriations Act requires the United States military to buy Army dress coats to be purchased and produced in the United States.

TA-W-26,887; Golden Gloves Manufacturing, Inc., Ft. Dodge, IA

Defense Appropriations Act required the United States military to buy Army dress coats to be purchased and produced in the United States.

TA-W-26,832; County Forest Products, Patten, ME

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-26,818; Pool Company (Texas), Inc., Sonora, TX

U.S. imports of crude oil data available revealed that US imports of crude oil declined absolutely and relative to domestic shipments in 1991 compared with 1990.

TA-W-26,749; Davol, Inc., Cranston, RI

The investigation revealed that any separations were due to a corporate decision to more certain production operations to other existing domestic company facilities.

TA-W-26,708; Owens-Brockway, Ada, OK

The investigation revealed that a corporate decision was made to consolidate operations by shifting production from the subject firm to another domestic facility.

TA-W-26,827; Amerada Hess Corp., Houston, TX

The investigation revealed that criterion (2) and criterion (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increases of imports or 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.

TA-W-27,042; IMC Magnetics Corp., Tempe, AZ

The investigation revealed that criterion (1) has not been met. Significant number or proportion of the workers did not become totally or partially separated as required for certification.

TA-W-26,906 and TA-W-26,906A; Bull Rogers, Inc., & Bull Rogers Laydown, Inc., Odessa, TX

U.S. imports of crude oil declined absolutely and relative to domestic shipment in 1991 compared to 1990. Also, U.S. shipments and exports of dry natural gas increased in 1991 compared to 1990 and that imports did not increase relative to domestic shipment and consumption.

Affirmative Determinations

TA-W-26,952; Springs Industries, Inc., White Plant, Fort Mill, SC

A certification was issued covering all workers separated on or after February 13, 1991.

TA-W-26,877; Trico Products Corp., Buffalo, NY

A certification was issued covering all workers separated on or after January 27, 1991.

TA-W-26,871; Mid West Waltham Abrasives, New Castle, IA

A certification was issued covering all workers separated on or after February 7, 1991 and before February 1, 1992.

TA-W-26,830; Cold Spring Granite Co., Cold Spring, MN

A certification was issued covering all workers separated on or after January 29, 1991.

TA-W-26,992 and TA-W-26,992A; Unisys Corp., Flemington & Branchburg, NJ

A certification was issued covering all workers separated on or after March 4, 1991.

TA-W-26,854, TA-W-26,855, TA-W-26,856; Dekalb Energy Co., Bakersfield, CA, Artesia, NM, & Williston, ND

A certification was issued covering all workers separated on or after February 7, 1991.

I hereby certify that the aforementioned determinations were issued during the month of April 1992. Copies of these determinations are available for inspection in room C-4318, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210 during normal business hours or will be mailed to persons to write to the above address.

Dated: April 14, 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-9093 Filed 4-17-92; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

California State Standard: Request for Public Comment

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Approval of the California State Standard: Hand Fed Food Patty Machines.

SUMMARY: This notice invites comments on California's Hand Fed Food Patty Machines standard. This standard is an independent State standard for which there is no Federal OSHA equivalent. Where a State standard adopted pursuant to an OSHA-approved State plan differs significantly from a comparable Federal standard or is a State-initiated standard, the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (the Act) in providing safe and healthful employment and places of employment. In addition, if the standard is applicable to a product distributed or used in interstate commerce, it must be required by compelling local conditions and not pose any undue burden on interstate commerce. OSHA, therefore, seeks public comment as to whether this California standard meets the above requirements.

DATES: Written comments should be submitted by May 20, 1992.

ADDRESSES: Written comments should be in quadruplicate to the Director, Federal-State Operations, Occupational Safety and Health Administration, U.S. Department of Labor, room N-3700, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, room N-3647, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 523-8184.

SUPPLEMENTARY INFORMATION:

A. Background

The requirements for adoption and enforcement of safety and health standards by a State with a State plan, approved under section 18(b) of the Act, are set forth in section 18(c)(2) of the Act and in 29 CFR 1902.29, CFR 1952.7, and 29 CFR 1953.21, 1953.22, 1953.23. OSHA regulations require that States respond to the adoption of new or revised permanent Federal standards by State promulgation of comparable standards within six months of OSHA publication in the **Federal Register** (29 CFR 1953.23(a)); a 30-day response time is required for State adoption of a standard comparable to a Federal emergency temporary standard (29 CFR 1953.22(a)(1)). Independent State standards must be submitted for OSHA's review and approval. Newly adopted State standards must be submitted for OSHA's review and approval under procedures set forth in 29 CFR part 1953, but are enforceable by the State prior to Federal review and approval. Section 18(c)(2) of the Act provides that if State standards which are not identical to Federal standards are applicable to products which are distributed or used in interstate commerce, such standards must be required by compelling local conditions and must not unduly burden interstate commerce. (This latter requirement is commonly referred to as the "product clause."

On May 1, 1973, notice was published in the **Federal Register** (38 FR 10717) of the approval of the California State plan and the adoption of subpart K to Part 1952 containing the decisions. The California State plan provides for the adoption of State standards in the following manner.

The Cal/OSHA standards Board, comprised of 7 members representing management, labor, occupational safety, occupational health, and the general public, reviews new Federal standards, as well as proposed State-initiated standards presented by the California Division of Occupational Safety and Health, and those suggested by interested parties. The Standards Board appoints advisory committees with special expertise to develop a draft standard. Hearings are held to obtain input from the public. After a standard is adopted by the Standards Board, it is reviewed by the Office of Administrative Law and signed by the Secretary of State. The standard

generally becomes effective 30 days after signing.

After public input, the California Standards Board adopted a standard for Hand Fed Food Patty Machines on January 24, 1991. The standard became effective on March 23, 1991. By letter dated May 10, 1991, with attachments, from R.W. Stranberg, formerly Acting Chief Deputy Director, to Frank L. Strasheim, Regional Administration, the State submitted the standard (8 CCR section 4554) and incorporated the standard as part of its occupational safety and health plan.

The State's standard addresses the inherent hazards in operating this type of machinery and initiates safety regulations for the guarding of hand fed food patty forming machines. OSHA does not have specific standards for Hand Fed Food Patty Machines. Therefore, OSHA's Directorate of Safety Standards Programs compared this standard to OSHA's Instruction STD 1–12.9, General Requirements for All Machines, and concluded that the State's standard addresses those specific areas of point of operation guarding necessary to provide safe handling of hand fed food patty machines by employees.

B. Issues for Determination

The California standard in question is now under review by the Assistant Secretary to determine whether it meets the requirements of section 18(c)(2) of the Act and 29 CFR parts 1902 and 1953. Public comment is being sought by OSHA on the following issues.

1. "At least as effective" requirement. There are no equivalent Federal standards applicable to this standard. Therefore, OSHA has evaluated the State's requirements in comparison to OSHA's general standards requirements and to enforcement policy and has preliminarily determined that the State standard in question meets the "at least as effective" criterion on section 18(c)(2) of the Occupational Safety and Health Act. However, public comment on this issue is solicited for OSHA's consideration in its final decision on whether or not to approve this California standard.

2. Product clause requirement. OSHA is also seeking through this notice public comment as to whether the California standard:

(a) Is applicable to products which are distributed or used in interstate commerce;
(b) If so, whether it is required by compelling local conditions; and
(c) Unduly burdens interstate commerce.

C. Public Participation

Interested persons are invited to submit written data, views, and arguments with respect to the issues described above. These comments must be postmarked on or before May 20, 1992, and submitted in quadruplicate to the Director, Federal-State Operations, room N–3700, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Written submissions must clearly identify the issues which are addressed and the position taken with respect to each issue. The Occupational Safety and Health Administration will consider all relevant comments, arguments, and requests submitted concerning these standards and will thereafter publish notice of the decision approving or disapproving them.

D. Location of Supplement for Inspection and Copying

A copy of California's standard applicable to Hand Food Patty Machines, along with approved State provisions for adoption of standards, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, U.S. Department of Labor—OSHA, 71 Stevenson Street, San Francisco, California 94105; California Department of Industrial Relations, California Division of Occupational Safety and Health (Cal/OSHA), 455 Golden Gate Avenue, 4th Floor, San Francisco, California 94102; Office of the Director, Federal-State Operations, OSHA U.S. Department of Labor, room N–3700, 200 Constitution Avenue NW., Washington, DC 20210.

Authority: Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR part 1902, Secretary of Labor's Order No. 1–90 (55 FR 9033).

Signed the 14th day of April, 1992, in Washington, DC.

Dorothy L. Strunk,

Acting Assistant Secretary.

[FR Doc. 92–9044 Filed 4–17–92; 8:45 am]

BILLING CODE 4510–26–M

Pension and Welfare Benefits Administration

Assessment of Civil Penalties for Failure To File Timely 5500 Reports

The U.S. Department of Labor's Pension and Welfare Benefits Administration (PWBA) has announced an expanded program for assessing civil penalties of up to $1,000 a day against plan administrators for failing to file timely Form 5500 annual reports. The program starts with the 1988 reporting year and includes all subsequent years. PWBA has also announced a limited time period during which plan administrators may file overdue annual reports without incurring the full penalty.

PWBA's reporting compliance program was established to help assure that plan administrators comply with reporting requirements under the Employee Retirement Income Security Act of 1974, as amended, (ERISA) by filing complete and accurate reports on time. To date, PWBA has focused its efforts on assessing penalties against plan administrators who filed seriously deficient annual reports. PWBA now intends to identify and penalize those plan administrators who file annual reports late or not at all.

Section 502(c)(2) of ERISA and Department of Labor's regulations at 29 CFR 2560.502c–2 and § 2570.60 authorize the Secretary of Labor to assess up to $1,000 a day against plan administrators who fail to file complete and timely annual reports.

To implement these provisions for late-filers and non-filers, the following penalties may be assessed against plan administrators:

1. Late-filers. Plan administrators who voluntarily file annual reports for 1988 and subsequent reporting years after the due date, with extensions, will be considered late-filers. They may be assessed $50 a day per plan for the period they failed to file.

2. Non-filers. Plan administrators who fail to file may be assessed a penalty of $300 a day per plan. The penalty will continue to accrue up to $30,000 per year per plan until a filing is submitted.

Because the Internal Revenue Service (IRS) shares jurisdiction with PWBA over pension plans (but not, with certain exceptions, over welfare plans), failure to file timely reports for pension plans may also result in IRS penalties.

Limited Time for Filing At Reduced Penalty

For a limited time PWBA is giving pension and welfare plan administrators an opportunity to file overdue annual reports without incurring the full penalty.

Beginning March 23, 1992 and continuing until September 30, 1992 (the Grace Period) plan administrators who voluntarily file overdue annual reports for 1988 and subsequent plan years will be assessed $50 per day per filing up to a maximum of $1,000 per filing if the conditions of the Grace Period are met. Plan administrators who submit late filings after the Grace Period will be subject to the larger penalties.

Pension plan administrators filing overdue reports during the Grace Period will enjoy the same terms in effect for welfare plans, but only with respect to PWBA's penalties. The IRS has, however, indicated that it will consider the good faith efforts of pension plan filers who take advantage of PWBA's Grace Period in determining what, if any, penalties the IRS may impose. Information concerning IRS penalties for failure to file timely reports can be found in the Form 5500 Series instruction booklets available from the IRS.

Requirements for Filing During the Grace Period

Plan administrators filing overdue reports during the Grace Period must:

1. File a complete Form 5500 Series Annual Report with all required schedules and attachments by mailing it to the IRS Service Center designated in the Form 5500 Series instructions. Forms and instructions can be obtained by dialing 1–800–829–3676 (this is a toll-free number).

2. Send a check for the penalty amount, made out to the U.S. Department of Labor (the Department), together with a copy of the complete filing made with the IRS with original signatures. Checks and copies of the filing made with the IRS should be sent to: Pension and Welfare Benefits Administration, P.O. Box 75212, Washington, DC 20013–5212.

Payment of the penalty under the terms of the Grace Period will constitute a waiver of the right both to receive notice of assessment from the Department and to contest the Department's assessment of the Grace Period penalty amount. Payment of this penalty does not preclude the assessment of non-filing or late-filing penalties by other agencies.

Annual reports received during the Grace Period are subject to the usual edit checks. Plan administrators will be given an opportunity to correct deficiencies, in accordance with the procedures contained in regulations located at 29 CFR 2560.502c–2 and 2570.60 et seq. However, uncorrected deficiencies may result in the assessment of further penalties.

PWBA has prepared a booklet, "The Trouble-Shooter's Guide to Filing ERISA Annual Reports," to assist in preparing the Form 5500. The booklet tells how forms are processed and how to avoid potential filing errors. Copies are available by written request to: U.S. Department of Labor, Pension and Welfare Benefits Administration, room # N–5511, 2nd & Constitution Ave., NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Janet Powell, Division of Reporting Compliance, Office of the Chief Accountant. Telephone (202) 523–8867 (Not a toll-free number).

Signed at Washington DC, this 14th day of April 1992.

Alan D. Lebowitz,

Deputy Assistant Secretary for Program Operations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 92–9094 Filed 4–17–92; 8:45 am]
BILLING CODE 4510–29–M

NATIONAL COMMISSION ON JUDICIAL DISCIPLINE AND REMOVAL

Public Hearing

AGENCY: National Commission on Judicial Discipline and Removal.

ACTION: Notice of public hearing.

TIME AND PLACE: Notice is hereby given in the public interest that a public hearing of the National Commission on Judicial Discipline and Removal will occur on May 1, 1992, in Washington, DC. The hearing will commence at 9:30 a.m., will break for lunch (from 12 noon until 1:30 p.m.) and will continue until approximately 4:30 p.m.

The precise location of the hearing will be room 2237, Rayburn House Office Building, U.S. House of Representatives, Washington, DC.

STATUS AND AUTHORITY: The entire hearing will be open to the public. Lunch will be closed to the public. The public hearing will be the first one of the National Commission, a body composed of thirteen members appointed by the Speaker of the House, the President *pro tem* of the Senate, the President, the Chief Justice of the United States and the Conference of Chief Justices. The National Commission, established by Public Law 101–650 (title IV), is assigned three statutory duties. The first is to investigate and study the problems and issues involved in the tenure (including discipline and removal) of Article III (appointed to serve for life) Federal judges. The second is to evaluate the advisability of proposing alternatives for current arrangements with respect to such problems and issues, including alternatives for the discipline or removal of Federal judges that would require constitutional amendments. Finally, the Commission is required to prepare and submit a report to the Congress, the Chief Justice and the President setting forth a detailed statement of its findings and conclusions together with any recommendations for legislative and administrative actions as are considered appropriate. The Commission is not authorized to consider the factual underpinnings of specified complaints against Federal judges.

Ordinarily the provisions of the Government in the Sunshine Act are not applicable to legislative or judicial agencies. Nonetheless, since the Commission is composed of representatives of all three branches of the Federal government, good faith attempts will be made to follow the spirit of the law. This good faith commitment to open meetings and hearings is incorporated in the Commission's By-laws.

MATTERS TO BE CONSIDERED: The Commission will receive testimony about the problems and issues involved in the tenure of Federal judges. The inquiry will deal with two distinct, but related subjects: The first being judicial discipline as administered by the Federal judicial branch of government; and the second being impeachment and removal by the legislative branch of government. During the morning hours, the Commission will explore issues relating to the role of the U.S. House of Representatives in the impeachment process. During the afternoon session, the Commission will receive testimony about judicial discipline and disability machinery and procedures within the Federal judicial branch.

Members of the public who wish to testify are urged to contact the Commission.

CONTACT PERSONS FOR FURTHER INFORMATION: For more information, contact Michael J. Remington or Victoria Y. Smith at the National Commission of Judicial Discipline and Removal, suite 690, 2100 Pennsylvania Avenue NW., Washington, DC 20037-3202; or call (202) 254–8169.

In order to schedule testimony, contact Vera Karamardian at the Commission offices at (202) 254–8170.

SUPPLEMENTARY INFORMATION: A written transcript of the hearing will be prepared and made available for public inspection during regular working hours at the Commission offices within approximately thirty working days of the hearing.

Michael J. Remington,

Director.

[FR Doc. 92–9039 Filed 4–17–92; 8:45 am]
BILLING CODE 6820–DB–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Atmospheric Sciences; Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 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 Atmospheric Sciences.
Date: May 4 and 5, 1992.
Time: 9 a.m. to 5 p.m. each day.
Place: National Center for Atmospheric Research, 1850 Table Mesa Drive, Boulder, Colorado.
Type of Meeting: Closed.
Agenda: Review and evaluation of UNIDATA Applications.
Contact: Dr. Clifford A. Jacobs, Facilities Coordinator, Division of Atmospheric Sciences, National Science Foundation, Washington, DC (202) 357–9889.

Dated: April 14, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–9004 Filed 4–17–92; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Chemistry; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended) the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Chemistry.
Date and Time: May 8, 1992; 8 a.m. to 5 p.m.
Place: Room 340, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.
Type of Meeting: Closed.
Contact Person: Dr. Arthur F. Findeis, Head, Office of Special Projects, Chemistry Division, 1800 G Street, NW., room 340, Washington, DC 20550, Telephone: (202) 357–7503.
Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.
Agenda: To review and evaluate Research Planning Grants and Career Advancement Awards Proposals for Women Scientists and Engineers and Minority Career Advancement 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 exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 14, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–9005 Filed 4–17–92; 8:45 am]

BILLING CODE 7555–01–M

Meeting

The National Science Foundation announces the following meeting:

Name: Materials Research Advisory Committee (MRAC).
Place: National Science Foundation, Vermont Avenue Conference & Training Center, 500E W.E. Deming Room, 1110 Vermont Avenue, NW., Washington, DC 20005.
Date: Thursday, May 7 and Friday, May 8, 1992.
Time: 8:30 a.m.—5 p.m. (Thursday). 9:00 a.m.—5 p.m. (Friday).
Type of Meeting: Open.
Contact Person: Dr. J. Narayan, Division Director, Division of Materials Research (DMR); room 408, National Science Foundation, Washington, DC 20550, Telephone: (202) 357–9794, FAX: (202) 357–7959.
Minutes: May be obtained from the contact person, Dr. J. Narayan, at the above stated address.
Purpose of Committee: To provide advice and recommendations concerning support of materials research.

Agenda:

Thursday, May 7, 1992

8:30 a.m.—Introductory Remarks and Adoption of Minutes.
9 a.m.—DMR Status Reports and Budget Briefing.
12 noon—Working Lunch; Presentation by Dr. Lyle H. Schwartz of NIST on the Status of the FCCSET Advanced Materials and Processing Program.
1 p.m.—Meeting with Dr. David Sanchez, Assistant Director, Mathematical and Physical Sciences.
2 p.m.—Meeting with Dr. Elbert L. Marsh, Deputy Assistant Director, Engineering.
3 p.m.—Discussion of Needs and Opportunities in Materials Research.
5 p.m.—Adjourn.

Friday, May 8, 1992

9 a.m.—Discussion of Long Range Plans and Future Initiatives.
12 noon—Working Lunch.
1:30 p.m.—Further Discussion of Needs and Opportunities in Materials Research.
4:30 p.m.—Future MRAC Activities.
5 p.m.—Adjourn.

Dated: April 14, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–9007 Filed 4–17–92; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for the Mathematical Sciences; Meeting

In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for the Mathematical Sciences.
Date & Time: May 4–5, 1992—8:30 a.m. to 5 p.m. each day. May 6, 1992—8:30 a.m. to 3:30 p.m.
Place: Room 540, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.
Type of Meeting:
Part Open—(Monday, May 4, 3 p.m. to 5 p.m.; Tuesday, May 5, 10 a.m. to 12 noon; and Tuesday, May 5, 1:30 p.m. to close of meeting)
Part Closed—(Monday, May 4, 8:30 a.m. to 3 p.m.; Tuesday, May 5, 8:30 a.m. to 10 a.m.; and Tuesday, May 5, 12 noon to 1:30 p.m.)
Contact Person: Dr. Judith S. Sunley, Division Director, Division of Mathematical Sciences, room 339, National Science Foundation, Washington, DC 20550. Telephone (202) 357–9669. Electronic mail: jsunley@nsf.gov. Anyone planning to attend this meeting should notify Dr. Sunley no later than May 1, 1992.
Purpose of Committee: To provide advice and recommendations concerning support for research in the mathematical sciences.

To carry out Committee of Visitors review of the Algebra and Number Theory, Applied Mathematics, Computational Mathematics, and Geometric Analysis programs.

Agenda:

Monday, May 4, 1992, 8:30 a.m. to 3 p.m.—Closed

Committee of Visitors Review of Algebra and Number Theory, Applied Mathematics, Computational Mathematics, and Geometric Analysis; including examination of proposals, reviewer comments, and other privileged materials.

Reason for Closing: The Committee of Visitor's review of proposal actions will include privileged intellectual property and personal information that could harm individuals if it were disclosed. If discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act would be improperly disclosed.

Monday, May 4, 1992, 3 p.m. to 5 p.m.—Open

Welcome
Introductions
Current Status: Fiscal Year 1992
Fiscal Year 1993 Budget Request

Tuesday, May 5, 1992, 8:30 a.m. to 10 a.m.—Closed

Continuation of Committee of Visitors reviews.

Tuesday, May 5, 1992, 10 a.m. to 12 noon—Open

Report of the Committees of Visitors, Algebra and Number Theory, Applied Mathematics, Computational Mathematics, Geometric Analysis, Discussion of COV Reports, Issues arising from oversights

Tuesday, May 5, 1992, 12 noon to 1:30 p.m.—Closed

Dicussion with AD/MPS on the role of the Division Director. (Personnel matters).
Reason for Closing: The personnel matters being discussed include information of a personal nature where disclosure would constitute unwarranted invasions of personal privacy. These matters are within exemption (6) of U.S.C. 552b(c), Government in the Sunshine Act.

Tuesday, May 5, 1992, 1:30 p.m. to adjournment—Open

Long Range Planning—DMS and MPS Priorities for the Mathematical Sciences Plans and assignments for the future other business

Dated: April 14, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-9008 Filed 4-17-92; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to OMB for review the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

1. *Type of Submission New, Revision, or Extension:* Revision.

2. *Title of the Information Collection:* Proposed Rule, 10 CFR 50.63, "Loss of All Alternating Current Power."

3. *Form Number:* Not Applicable.

4. *How Often the Collection is Required:* On occasion. Only when emergency diesel generator (EDG) fails to start and load-run reach the failure criteria specified in proposed rule.

5. *Who Will be Required or Asked to Report:* All light water power reactor licensees.

6. *An Estimate of Reporting Responses:* 12 reports annually.

7. *An Estimate of the Number of Hours Annually Needed to Complete the Reporting Requirement or Request:* 8900 (492 hours per response).

8. *An Indication of Whether Section 3504(h), Public Law 96-511 Applies:* Applicable.

9. *Abstract:* The proposed rule would require licensees to test and monitor emergency diesel generators (EDGs) against criteria that indicate possible degradation from the EDG target levels selected by the licensee in determining the specified station blackout duration as required by 10 CFR 50.63(a). This approach consists of (1) establishment of EDG target reliability levels that comport with the reliability levels assumed in a licensee's coping analysis for station blackout; (2) establishment of trigger values with respect to EDG failures, to provide warning of possible deterioration of EDG reliability and to provide a basis for taking regulatory action when it becomes clear from surveillance testing that EDG reliability has fallen below selected target levels; and (3) a reporting regime for EDG failures consistent with the approach described above.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street NW., Lower Level, Washington, DC.

Comments and questions can be directed by mail to the OMB reviewer: Ronald Minsk, Office of Information and Regulatory Affairs (3150-0011), NEOB-3019, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395-3084. The NRC Clearance Officer is Brenda Jo. Shelton, (301) 492-8132.

Dated at Bethesda, Maryland, this 9th day of April 1992.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 92-9102 Filed 4-17-92; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-443A]

Public Service Company of New Hampshire, et al., Seabrook Nuclear Station, Unit 1 Reevaluation of Antitrust Finding

Notice is hereby given that counsel for the City of Holyoke Gas and Electric Department has requested a reevaluation by the Director of the Office of Nuclear Reactor Regulation of the "Finding of No Significant Antitrust Changes" pursuant to the antitrust review of the captioned nuclear unit. After further review, I have decided not to change my finding.

A copy of my finding, the request for reevaluation, and my reevaluation are available for public examination and copying, for a fee, at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555.

Dated at Rockville, Maryland, this 9th day of April 1992.

For the Nuclear Regulatory Commission.

Thomas E. Murley, Director,

Office of Nuclear Reactor Regulation.

[FR Doc. 92-9105 Filed 4-17-92; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-354]

Public Service Electric & Gas Company, Atlantic City Electric Co., Hope Creek Generating Station; Withdrawal of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted a request by the Public Service Electric and Gas Company and Atlantic City Electric Company (the licensees) to withdraw their October 17, 1991 application for an amendment to Facility Operating License No. NPF-57, issued to the licensee for operation of the Hope Creek Generating Station, located in Lower Alloways Creek Township, Salem County, New Jersey. Notice of Consideration of Issuance of this amendment was published in the **Federal Register** on November 13, 1991 (56 FR 57703).

The purpose of the licensees' amendment request was to revise the Technical Specifications to modify the minimum channels operable requirement of the Suppression Pool Water Temperature Instruments.

Subsequently, the licensees informed the staff that the amendment is no longer requested. Thus, the amendment application is considered to be withdrawn by the licensees.

For further details with respect to this action, see (1) the application for

amendment dated October 17, 1991, and (2) the staff's letters dated March 20, 1992 and April 13, 1992.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC and at the Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070.

Dated at Rockville, Maryland this 13th day of April 1992.

For the Nuclear Regulatory Commission.

Stephen Dembek,

Project Manager, Project Directorate I–2, Division of Reactor Projects—I/II Office of Nuclear Reactor Regulation.

[FR Doc. 92–9104 Filed 4–17–92; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–80]

Canadian Provincial Practices Affecting Canadian Imports of Beer

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of determination under section 305 of the Trade Act of 1974, as amended ("Trade Act").

SUMMARY: The Office of the United States Trade Representative has determined that, in light of continuing negotiations to eliminate certain provincial liquor board practices, it is desirable to delay implementation of action under section 304 of the Trade Act in the above-referenced action.

ADDRESSES: Section 301 Committee, Office of the United States Trade Representative, room 223, 600 17th Street NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: David Weiss, Deputy Assistant United States Trade Representative for Canadian Affairs, (202) 395–3412, or Andrew Shoyer, Assistant General Counsel, (202), 395–7203.

SUPPLEMENTARY INFORMATION: On December 27, 1991, the United States Trade Representative ("USTR") determined, consistent with a report of a dispute settlement panel established under the General Agreement on Tariffs and Trade ("GATT"), that acts, policies or practices of Canada violate the provisions of a trade agreement (specifically, the GATT), and that action be taken in the form of substantially increased duties on beer and malt beverages from Canada sufficient to offset fully the nullification or impairment of U.S. GATT benefits resulting from these Canadian acts, policies or practices. 57 FR 308 (January 3, 1992). The USTR further determined at that time, pursuant to section 305(a)(2) of the Trade Act, that it was desirable to implement such action no later than April 10, 1992.

On March 31, 1992, the Government of Canada submitted to the GATT Contacting parties a plan of proposed provincial actions to address the recommendations of the GATT panel report. The United States found the plan to be unacceptable because the proposals would not bring Canada into GATT conformity, and would be implemented over an excessively lengthy period of time.

Since March 31, 1992, the United States and Canada have held consultations in which clarification of the March 31 plan has been sought. Further, the United States has sought negotiations designed to provide significant market access for U.S. brewers by the 1992 summer season. The United States is currently negotiating with Canada on this matter. Accordingly, the USTR has determined, pursuant to section 305 of the Trade Act, that it is desirable to delay implementation of the action announced on December 27, 1991, to allow these negotiations to proceed.

Pending the conclusion of negotiations, the USTR has instructed the Customs Service, pursuant to section 301(c)(1) of the Trade Act, to withhold liquidation of Canadian beer entered, or withdrawn for consumption from warehouse, on or after April 13, 1992.

Jeanne E. Davidson,

Chairman, Section 301 Committee.

[FR Doc. 92–9036 Filed 4–17–92; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 91–224]

Certification of Alternative Advisory Group in Lieu of a Council

AGENCY: Coast Guard, DOT.

ACTION: Notice of Certification.

SUMMARY: On April 14, 1992, the Coast Guard certified the Prince William Sound Regional Citizens' Advisory Council (RCAC) as a voluntary advisory group pursuant to section 5002(o) of the Oil Pollution Act of 1990 (OPA 90). Annual certification, in accordance with OPA 90, allows an organization acting as an advisory group to function in lieu of a council in order to monitor the oil tankers and facilities in the vicinity of Prince William Sound.

EFFECTIVE DATE: Period March 22, 1992 through December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Paul Jewell, Project Manager, Oil Pollution Act (OPA 90) Staff, (G–MS–1), (202) 267–6746, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION: Congress passed the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990 (section 5002 of OPA 90) to foster the long-term partnership between industry, government, and local communities in overseeing compliance with environmental concerns in the operation of crude oil terminals and oil tankers.

Section 5002(o) of OPA 90, permits a voluntary advisory group in lieu of a council of the type specified in section 5002(c)–(1) to represent the communities and interests in the vicinity of the oil terminal facilities in Prince William Sound if certain conditions are met. The advisory groups' purpose is to monitor the operations of the oil tankers and terminal facilities and provide advice and recommendations.

OPA 90 requires annual certification, by the President that a voluntary advisory group in the Prince William Sound area fosters the general goals and purposes of the Act and is broadly representative of the community and interests in the vicinity of the terminal facilities in order for that group to function in lieu of the specified council. Accordingly, in 1991, the President granted certification to the Prince William Sound Regional Citizens' Advisory Committee; that certification has now expired. The authority to certify alternative advisory groups was delegated to the Commandant of the Coast Guard and has been redelegated to the Chief, Office of Marine Safety, Security and Environmental Protection. The Coast Guard is currently developing standards for recertification of voluntary advisory groups but these standards have not yet been finalized.

The Coast Guard received a request from the Prince William Sound Regional Citizens' Advisory Council requesting recertification in 1992 as the alternative voluntary advisory group for Prince William Sound. The request to recertify the group in accordance with section 5002(o) of OPA 90 was evaluated without the benefit of formal standards and approved. In the future, recertification requests will be approved only if the advisory groups meet the criteria developed by the Coast Guard.

Certification

By letter dated April 14, 1992 the Chief, Office of Marine Safety, Security and environmental Protection certified that the Prince William Sound Regional Citizens' Advisory Council qualifies as an alternative voluntary advisory group under the provisions of section 5002(o)(1) of the Oil Pollution Act of 1990.

Issued on: April 14, 1992.

R.C. North,

Captain, U.S. Coast Guard, Deputy Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 92-9086 Filed 4-17-92; 8:45 am]

BILLING CODE 4910-14-M

[CGD 92-019]

Discontinuance of Commercial Refile of Loran-C and Omega Navigation System Status

AGENCY: Coast Guard, DOT.

ACTION: Notice; request for comments.

SUMMARY: The Coast Guard will cease providing Loran-C and Omega status information via the Defense Communications Service (DCS) Autodin Consolidated Commercial Refile Center. The Omega Mail Status Advisory Service will also be discontinued. The information will be posted on an electronic bulletin board (BBS) maintained by the USCG Omega Navigation System Center in Alexandria, VA.

DATES: Commercial refiling of status messages will cease on September 30, 1992.

ADDRESSES: Comments should be mailed to the Executive Secretary (G-LRA/3406) (CGD 92-019), U.S. Coast Guard, Washington, DC 20593-0001. Comments will be available for public inspection and copying between 8 a.m. and 3:30 p.m., Monday through Friday, except holidays, at the Marine Safety Council (G-LRA), room 3406, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593-0001. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: CDR Clyde Watanabe, Executive Officer, USCG Omega Navigation System Center, 7323 Telegraph Road, Alexandria, VA 22310-3998, telephone 703/866-3800, (FTS)398-3800.

SUPPLEMENTARY INFORMATION: The DCS Autodin Consolidated Commercial Refile Center in Albany, GA will cease operations in November 1993, requiring the Coast Guard to utilize another method to make Omega and Loran-C status information available to commercial interests. The Omega Mail Status Advisory Service, which involved special dissemination of Omega status messages via mail, will also be discontinued by the Coast Guard as a cost savings measure. The information will be made available to interested parties through an electronic bulletin board system (BBS) operated by the USCG Omega Navigation System Center in Alexandria, VA.

Omega status and status information for the continental U.S., Alaskan, and Canadian Loran-C chains are already available via BBS. The BBS is operated to make radionavigation information available to users 24 hours/day, 365 days/year. The BBS provides information on the Global Positioning System (GPS), Differential GPS, Omega, general radionavigation information, and the following Loran-C chains: Canadian East Coast Chain (CEC, 5930), Northeast U.S. Chain (NEUS, 9960), Southeast U.S. Chain (SEUS, 7980), Great Lakes Chain (GLKS, 8970), South Central U.S. Chain (SOCUS, 9610), North Central U.S. Chain (NOCUS, 8290), U.S. West Coast Chain (USWC, 9940), Canadian West Coast Chain (CWC, 5990), Gulf of Alaska Chain (GOA, 7960), and North Pacific Chain (NORPAC, 9990). Users may contact the BBS via modem at (703) 866-3890 for 300-2400 bits per second and at (703) 866-3894 for up to 9600 bits per second.

The Coast Guard will cease providing the status information via the commercial refile system and mail (for Omega status advisories) on September 30, 1992.

Rather than actively providing the information to users, the Coast Guard intends for users to access the BBS on their own initiative. The Coast Guard specifically requests comments from the using public concerning the effect of this change on their operations and any alternative suggestions. In addition to the bulletin board, watchstanders at this information center can be reached directly at (703) 866-3806 from 8 a.m. to 4 p.m., Eastern time, Monday through Friday, except federal holidays, with voice recordings available after work hours at (703) 866-3801 for Omega status and (703) 866-3826 for GPS status. Loran-C status is not currently available on voice recording. Although various information services are available 24 hours a day, the information on them is updated only during these working hours. The Coast Guard plans to expand the information center to 24 hr/day operations by September 30, 1992.

Dated: April 1, 1992.

W.J. Ecker,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 92-9087 Filed 4-17-92; 8:45 am]

BILLING CODE 4910-14-M

[CGD 92-020]

Move of Coast Guard Atlantic Area Loran-C Staff

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: The Coast Guard Atlantic Area Loran-C Branch will move from its current location on Governors Island, NY to Alexandria, VA. This change is expected to result in better management and efficiency as a result of consolidation of similar operations.

DATES: The move will be completed by July 31, 1992.

ADDRESS: The staff can be contacted via ONSCEN at (703) 886-3800, FAX number (703) 886-3866, and mailing address: Commander, Atlantic Area (Atl), C/O Commanding Officer, USCG Alexandria, VA 22310-3998.

FOR FURTHER INFORMATION CONTACT: CDR Clyde Watanabe, Executive Officer, USCG Omega Navigation System Center, 7323 Telegraph Road, Alexandria, VA 22310-3998, telephone 703/866-3800, (FT) 398-3800.

SUPPLEMENTARY INFORMATION: The Coast Guard is initiating a project to centralize the operational control of all radionavigation systems. Relocating this Loran-C staff to ONSCEN is the first step in this consolidation effort.

There will be no change in the responsibilities carried out by this staff, only a change in their location. The Coast Guard does not expect the move to affect the general public or Loran-C users.

Dated: April 13, 1992.

A. Cattalini,

Captain, U.S. Coast Guard, Acting Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 92-9088 Filed 4-17-92; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Aviation Rulemaking Advisory Committee, 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 May 7, 1992, at 9 a.m.

ADDRESS: 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 May 7, 1992, 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 (Discussion of the part 121 Training Program Advisory Circular), 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 April 13, 1992.

David R. Harrington,

Executive Director, Training and Qualifications Subcommittee, Aviation Rulemaking Advisory Committee.

[FR Doc. 92-9058 Filed 4-17-92; 8:45 am]

BILLING CODE 4910-13-M

Oakland International Airport, Oakland, CA; Intent to Rule

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Intent to Rule on application to impose and use the revenue from a Passenger Facility Charge (PFC) at Metropolitan Oakland International Airport, Oakland, California.

SUMMARY: The Federal Aviation Administration (FAA) proposed to rule and invites public comment on the application to impose and use the revenue from a PFC at Metropolitan Oakland International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508) and 14 CFR part 158).

On March 27, 1992, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Port of Oakland was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 26, 1992.

DATES: Comments must be received on or before May 20, 1992.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Airports Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009 or San Francisco Airports District Office, 831 Mitten Road, room 210, Burlingame, CA 94010-1303. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Charles R. Roberts, Executive Director of the Port of Oakland, at the following address: Post Office Box 2064, Oakland, California 94604-2064. Comments from air carriers and foreign air carriers may be in the same form as provided to the Port of Oakland under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph R. Rodriguez, Supervisor, Planning and Programming Section, Airport District Office, 831 Mitten Road, room 210, Burlingame, CA 94010-1303, Telephone: (415) 876-2805. The applications may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The following is a brief overview of the application.

Level of Proposed PFC: $3.00.

Proposed Charge Effective Date: September 1, 1992.

Proposed Charge Expiration Date: November 1, 1993.

Total Estimated PFC Revenue: $10,000,000.00.

Brief Description of Proposed Project: Handicap Upgrades in Terminal One; Expansion to Baggage Claim in Terminal One; Recarpet Terminal Two; Upgrade Sealer on Aircraft Ramp; Security Access Control System, Overlay of Taxiway Five (Between RW27L and TW 10); Overlay of Taxiway Five (Between TW 10 and TW 1); Overlay of Taxiway One; Emergency Notification System; Runway/Taxiway Signs; Remote ARFF Pad; New Quick Response ARFF Vehicle; Recoat Aircraft Loading Bridges; Six Acre Air Cargo Apron; Overlay Inbound Airport Drive; Replace Emergency Water Valve; Noise Monitoring System.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators (ATCO) filing FAA Form 1800-31.

Availability of Application

Any person may inspect the application in person at the FAA office listed above. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Port of Oakland.

Issued in Hawthorne, California, on April 3, 1992.

Ellsworth L. Chan,

Manager, Planning & Programming Branch, Western-Pacific Region.

[FR Doc. 92-9054 Filed 4-17-92; 8:45 am]

BILLING CODE 4910-14-M

San Jose International Airport, CA; Notice of Intent to Rule

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent to rule on application to impose and use the revenue from a Passenger Facility Charge (PFC) at San Jose International Airport San Jose California.

SUMMARY: The Federal Aviation Administration (FAA) proposed to rule and invites public comment on the application to impose and use and impose only the revenue from a PFC at San Jose International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508) and 14 CFR part 158).

On March 10, 1992, the FAA determined that the application to impose and use the revenue from a PFC submitted by the city of San Jose was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 10, 1992.

DATES: Comments must be received on or before May 20, 1992.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Airports Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009 or San Francisco Airports District Office, 831 Mitten Road, room 210, Burlingame, CA 94010–1303. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Ralph Tonzeth, Director of Aviation, San Jose International Airport, 1661 Airport Boulevard, San Jose, California 95110–1285. Comments from air carriers and foreign air carriers may be in the same form as provided to the city of San Jose under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph R. Rodriguez, Supervisor, Planning and Programming Section, Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303, Telephone: (415) 876–2805. The applications may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The following is a brief overview of the application.

Level of proposed PFC: $3.00.

Proposed charge effective date: June 1, 1992.

Proposed charge expiration date: December 31, 1995.

Total estimated PFC revenue: $37,257,000.

Brief description of proposed project:

Impose and use: Advanced Planning, Communication Center Upgrade, Fire Truck Replacement, Fuel Farm Cleanup, Handi-Lift Replacement, Noise Attenuation, Noise Monitoring System Upgrade, Nose Remedy/Land Acquisition, Security Access Control System, Automated Vehicle Identification System.

Impose Only: Control Tower Restoration, Fire Station Remodel, Runway 12R/30R Extension, Sign Program.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators (ATCO) filing FAA Form 1800–31.

Availability of Application

Any person may inspect the application in person at the FAA office listed above. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the city of San Jose.

Issued in Hawthorne, California, on April 3, 1992.

Ellsworth L. Chan,

Manager, Planning & Programming Branch, Western-Pacific Region.

[FR Doc. 92–9055 Filed 4–17–92; 8:45 am]

BILLING CODE 4910–13–M

Saint Lawrence Seaway Development Corporation

Advisory Board; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation, to be held at 2 p.m., May 6, 1992, at the Corporation's Administration Headquarters, room 5424, 400 Seventh Street SW., Washington, DC. The agenda for this meeting will be as follows: Opening Remarks; Consideration of Minutes of Past Meeting; Review of Programs; Business; and Closing Remarks.

Attendance at meeting is open to the interested public but is limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the meeting. Persons wishing further information should contact not later than April 29, 1992, Marc C. Owen, Advisory Board Liaison, Saint Lawrence Seaway Development Corporation, 400 Seventh Street SW., Washington, DC. 20590; 202–366–0091.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued at Washington, DC on April 13, 1992.

Marc C. Owen,

Advisory Board Liaison.

[FR Doc. 92–8998 Filed 4–17–92; 8:45 am]

BILLING CODE 4910–61–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: April 14, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New.

Form Number: None.

Type of Review: New Collection.

Title: Focus Group Interviews Concerning Taxpayers' Input on the Tax Systems Modernization Effort.

Description: These focus group interviews are necessary to validate how taxpayers comply with their tax obligation, to identify major problems experienced, and to explore changes in the way IRS conducts business. These results will be incorporated into the Tax Systems Modernization effort. Affected public are individual and small business taxpayers.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents: 1,400.

Estimated Burden Hours Per Respondent: 2 hours.

Frequency of Response: Other (One-time focus groups).

Estimated Total Reporting Burden: 537 hours.

Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 92–9075 Filed 4–17–92; 8:45 am]

BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

Date: April 13, 1992.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex,

1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New.
Form Number: IRS 1040PC Format.
Type of Review: New collection.
Title: U.S. Individual Income Tax Return 1040PC Format.
Description: Form 1040PC is a computer-generated tax return answer sheet used as an alternative method of filing Form 1040. It will offer direct deposit for taxpayers to have their refunds deposited into their personal savings or checking accounts by electronic funds transfer. It will also generate a preprinted payment voucher for use when payment is due to the IRS.
Respondents: Individual or households.
Estimated Number of Responses: 2,000,000.
Estimated Burden Hours Per Respondent: 20 minutes.
Frequency of Response: Annually.
Estimated Total Reporting Burden: 660,000 hours.

OMB Number: 1545–1250.
Form Number: IRS Form 9356.
Type of Review: Extension.
Title: Application to Participate in the 1993—1040PC Project for Individual Income Tax Returns.
Description: Form 9356 will be filled-in by software developers and submitted to IRS as an application for producing software for Form 1040PC.
Respondents: Businesses or other for-profit.
Estimated Number of Responses: 3,000.
Estimated Burden Hours Per Respondent: 15 minutes.
Frequency of Response: Annually.
Estimated Total Reporting Burden: 750 hours.
Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports, Management Officer.
[FR Doc. 92–9076 Filed 4–17–92; 8:45 am]
BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

Date: April 14, 1992.

The Department of Treasury has submitted the following public information collection requirements (s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0429.
Form Number: IRS Form 4506.
Type of Review: Extension.
Title: Request for Copy of Tax Form.
Description: 26 U.S.C. 7513 allows for taxpayers to request a copy of a tax return. Form 4506 is used by a taxpayer to request a copy of a Federal tax form. The information provided will be used for research to locate the tax form and to ensure that the requestor is the taxpayer.
Respondents: Individuals or households, State or local governments, Farms, Businesses or other for-profit, Federal agencies or employees, Small businesses or organizations.
Estimated Number of Responses/ Recordkeepers: 914,540.
Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping	13 minutes
Learning about the law or the form	7 minutes
Preparing the form	21 minutes
Copying, assembling and sending the form to the IRS	17 minutes

Frequency of Response: On occasion.
Estimated Total Reporting/ Recordkeeping Burden: 896,249 hours.
Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports, Management officer.
[FR Doc. 92–9077 Filed 4–17–92; 8:45 am]
BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

Date: April 14, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0177.
Form Number: ATF F 5100.29.
Type of Review: Extension.
Title: Catering Locations.
Description: ATF F 5100.29 is used by caterers to register all changes of locations within a previous 30-day period. This is to identify where liquor was sold at locations other than what was listed on the special tax stamp issued to the caterer. The form is filed in duplicate by the caterer, along with an amended ATF F 5630.5.
Respondents: Individual or households, Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 500.
Estimated Burden Hours Per Respondent: 30 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 250 hours.
Clearance Officer: Robert N. Hogarth (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports, Management Officer.
[FR Doc. 92–9078 Filed 4–17–92; 8:45 am]
BILLING CODE 4810–31–M

Office of the Secretary

[Department Circular—Public Debt Series—No. 14–92 and CUSIP No. 912827 F2 3]

Treasury Notes of April 30, 1997, Series L–1997

Washington, April 16, 1992.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for United States securities, as described above and in the offering announcement, hereafter referred to as

Notes. The Notes will be sold at auction, and bidding will be on a yield basis. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to the Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The issue date and maturity date of the notes are stated in the offering announcement. The Notes will accrue interest from the issue date. Interest will be payable on a semiannual basis as described in the offering announcement through the date that the principal becomes payable. The Notes will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes will be issued only in book-entry form in the minimum and multiple amounts stated in the offering announcement. They will not be issued in registered definitive or in bearer form.

2.3. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the Treasury Direct Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2–86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500. The closing times for the receipt of noncompetitive and competitive tenders are specified in the offering announcement. Noncompetitive tenders will be considered timely if postmarked (U.S. Postal Service cancellation date) no later than the day prior to the auction and received no later than close of business on the issue day.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is stated in the offering announcement, and larger bids must be in multiples of that amount.

3.3. Competitive bids must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. A single bidder, as defined in Treasury's single bidder guidelines contained in Attachment A to this circular, may submit bids at more than one yield. However, at any one yield, the Treasury will not recognize any amount tendered by a single bidder in excess of 35 percent of the public offering amount. A competitive bid by a single bidder at any one yield in excess of 35 percent of the public offering will be reduced to that amount.

3.4. Noncompetitive tenders do not specify a yield. A single bidder should not submit a noncompetitive tender for more than $5,000,000. A noncompetitive bid by a single bidder in excess of $5,000,000 will be reduced to that amount. A bidder, whether bidding directly or through a depository institution or a government securities broker/dealer, may not submit a noncompetitive bid for its own account in the same auction in which it is submitting a competitive bid for its own account. A bidder may not submit a noncompetitive bid if the bidder holds a position, in the Notes being auctioned, in "when-issued" trading, or in futures or forward contracts. A noncompetitive bidder may not enter into any agreement to purchase or sell or otherwise dispose of the security being auctioned, nor may it commit to sell the security prior to the designated closing time for receipt of competitive bids.

3.5. The following institutions may submit tenders for accounts of customers: Depository institutions, as described in section 19(b)(1)(A), excluding those institutions described in subparagraph (vii), of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)); and government securities broker/dealers that are registered with the Securities and Exchange Commission or noticed as government securities broker/dealers pursuant to section 15C(a)(1) of the Securities Exchange Act of 1934. Others are permitted to submit tenders only for their own account. A submitter, if bidding competitively for customers, must include a customer list with the tender giving, for each customer, the name of the customer and the amount bid. A separate tender and customer list should be submitted for each competitive yield. For non-competitive bids, the customer list must provide, for each customer, the name of the customer and the amount bid. For mailed tenders, the customer list must be submitted with the tender. For other than mailed tenders, the customer list should accompany the tender. If the customer list is not submitted with the tender, information for the list must be complete and available for review by the deadline for submission of noncompetitive tenders. The customer list should be received by the Federal Reserve Bank on auction day. All competitive and noncompetitive bids submitted on behalf of trust estates must provide, for each trust estate, the name or title of the trustee(s), a reference to the document creating the trust with the date of execution, and the employer identification number of the trust. Customer bids may not be aggregated on the customer list. The customer list must include customers and customers of those customers, where applicable.

3.6. A competitive single bidder must report its net long position if the total of all its bids for the security being offered and its net position in the security equals or exceeds $2 billion, with the position to be determined as of one half-hour prior to the closing time for the receipt of competitive tenders. A net long position includes positions, in the security being auctioned, in "when-issued" trading, and in futures and forward contracts. Bidders who meet this reporting requirement and are customers of a depository institution or a government securities broker/dealer must report their positions through the institution submitting the bid on their behalf.

3.7 Tenders from bidders who are making payment by charge to a funds account at a Federal Reserve Bank and tenders from bidders who have an approved autocharge agreement on file at a Federal Reserve Bank will be received without deposit. In addition, tenders from States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks will be received without deposit. Tenders from all others, including tenders submitted for Notes to be maintained on the book-entry records of the Department of the Treasury, must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.8 After the deadline for receipt of competitive tenders, there will be a

public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive bids will be accepted in full, and then competitive bids will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Bids at the highest accepted yield will be prorated if necessary. After the determination is made as to which bids are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive bids will pay the price equivalent to the weighted average yield of accepted competitive bids. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive bids received would absorb all or most of the offering, competitive bids will be accepted in an amount sufficient to provide a fair determination of the yield. Bids received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive bids.

3.9. No single bidder will be awarded securities in an amount exceeding 35 percent of the public offering. The determination of the maximum award to a single bidder will take into account the bidder's net long position, if the bidder has been obliged to report its position per the requirements outlined in section 3.6.

3.10. Notice of awards will be provided by a Federal Reserve Bank or Branch or the Bureau of the Public Debt to bidders who have submitted accepted competitive bids, whether for their own account or for the account of customers. Those submitting non-competitive bids will be notified only if the bid is not accepted in full, or when the price at the average yield is over par. No later than 12 noon local time on the day following the auction, the appropriate Federal Reserve Bank will notify each depository institution that has entered into an autocharge agreement with a bidder as to the amount to be charged to the institution's funds account at the Federal Reserve Bank on the issue date. Any customer that is awarded $500 million or more of securities must furnish, no later than 10 a.m. local time on the day following the auction, written confirmation of its bid to the Federal Reserve Bank or Branch where the bid was submitted. A depository institution or government securities broker/dealer submitting a bid for a customer is responsible for notifying its customer of this requirement if the customer is awarded $500 million or more of securities as a result of bids submitted by the depository institution or government securities broker/dealer.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all bids in whole or in part, to allot more or less than the amount of Notes specified in the offering announcement, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made timely at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted will be made by a charge to a funds account or pursuant to an approved autocharge agreement, as provided in section 3.7. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.7. must be made or completed on or before the issue date. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury notes or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors by the time stated in the offering announcement. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has been completed on time, an amount of up to 5 percent of the par amount of Notes allotted may, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in Treasury Direct are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Note being purchased. In any such case, the tender form used to place the Notes allotted in Treasury Direct must be completed to show all the information required thereon, or the Treasury Direct account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular is such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

6.4. Attachment A and the offering announcement are incorporated as part of this circular.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

Attachment A—Treasury's Single Bidder Guidelines for Bidders in all Treasury Security Auctions

The investor categories listed below define what constitutes a single bidder.

(1) *Bank Holding Companies and Subsidiaries—*

A bank holding company (includes the company and/or one or more of its subsidiaries, whether or not organized as separate entities under applicable law).

(2) *Banks and Branches—*

A parent bank (includes the parent and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(3) *Thrift Institutions and Branches—*

A thrift institution, such as a savings and loan association, credit union, savings bank, or other similar entity (includes the principal or parent office and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(4) *Corporations and Subsidiaries*—
A corporation (includes the corporation and/or one or more of its majority-owned subsidiaries, i.e., any subsidiary more than 50 percent of whose stock is owned by the parent corporation or by any other of its majority-owned subsidiaries).

(5) *Families*—
A married person (includes his or her spouse, and any unmarried adult children, having a common address and/or household).

Note: A minor child, as defined by the law of domicile, is *not* permitted to submit tenders individually, or jointly with an adult bidder. (A minor's parent acting as natural guardian is *not* recognized as a separate bidder).

(6) *Partnerships*—
Each partnership (includes a partnership or individual partner(s), acting together or separately, who own the majority or controlling interest in other partnerships, corporations, or associations).

(7) *Guardians, Custodians, or other Fiduciaries*—
A guardian, custodian, or similar fiduciary, identified by (a) the name or title of the fiduciary, (b) reference to the document, court order, or other authority under which the fiduciary is acting, and (c) the taxpayer identifying number assigned to the estate.

(8) *Trusts*—
A trust estate, which is identified by (a) the name or title of the trustee, (b) a reference to the document creating the trust, e.g., a trust indenture, with date of execution, or a will, and (c) the IRS employer identification number (not social security account number).

(9) *Political Subdivisions*—
(a) A state government (any of the 50 states and the District of Columbia).
(b) A unit of local government (any county, city, municipality, or township, or other unit of general government, as defined by the Bureau of the Census for statistical purposes, and includes any trust, investment, or other funds thereof).
(c) A commonwealth, territory, or possession.

(10) *Mutual Funds*—
A mutual fund (includes all funds that comprise it, whether or not separately administered).

(11) *Money Market Funds*—
A money market fund (includes all funds that have a common management).

(12) *Investment Agents/Money Managers*—
An individual, firm, or association that undertakes to service, invest, and/or manage funds for others.

(13) *Pension Funds*—
A pension fund (includes all funds that comprise it, whether or not separately administered).

Notes: The definitions do not reflect all bidder situations. "Single bidder" is not necessarily synonymous with "single entity".

Questions concerning the guidelines should be directed to the Office of Financing, Bureau of the Public Debt, Washington, DC 20239 (telephone 202/219–3350).

For Release at 2:30 p.m. April 15, 1992.
Contact: Office of Financing 202/219–3350.

Treasury to Auction 2-Year and 5-Year Notes Totaling $25,000 Million

The Treasury will auction $14,750 million of 2-year notes and $10,250 million of 5-year notes to refund $11,313 million of securities maturing April 30, 1992, and to raise about $13,675 million new cash. The $11,313 million of maturing securities are those held by the public, including $720 million currently held by Federal Reserve Banks as agents for foreign and international monetary authorities.

The $25,000 million is being offered to the public, and any amounts tendered by Federal Reserve Banks as agents for foreign and international monetary authorities will be added to that amount. Tenders for such accounts will be accepted at the average prices of accepted competitive tenders.

In addition to the public holdings, Federal Reserve Banks, for their own accounts, hold $1,484 million of the maturing securities that may be refunded by issuing additional amounts of the new securities at the average prices of accepted competitive tenders.

Details about each of the new securities are given in the attached highlights of the offerings and in the official offering circulars.

Attachment

Highlights of Treasury Offerings to the Public of 2-Year and 5-Year Notes to be Issued April 30, 1992

[April 15, 1992]

Amount Offered to the Public	$14,750 million	$10,250 million.
Description of Security:		
Term and type of security	2-year notes	5-year notes.
Series and CUSIP designation	Series Y-1994 (CUSIP No. 912827 E9 9)	Series L-1997 (CUSIP No. 912827 F2 3).
Maturity date	April 30, 1994	April 30, 1997.
Interest rate	To be determined based on the average of accepted bids.	To be determined based on the average of accepted bids.
Investment yield	To be determined at auction	To be determined at auction.
Premium or discount	To be determined after auction	To be determined after auction.
Interest payment dates	October 31 and April 30	October 31 and April 30.
Minimum denomination available	$5,000	$1,000.
Terms of Sale:		
Method of sale	Yield auction	Yield auction.
Competitive tenders	Must be expressed as an annual yield, with two decimals, e.g., 7.10%.	Must be expressed as an annual yield, with two decimals, e.g., 7.10%.
Noncompetitive tenders	Accepted in full at the average price up to $5,000,000.	Accepted in full at the average price up to $5,000,000.
Accrued interest payable by investor	None	None.
Key Dates:		
Receipt of tenders	Wednesday, April 22, 1992	Thursday, April 23, 1992.
(a) noncompetitive	Prior to 12:00 noon, EDST	Prior to 12:00 noon, EDST.
(b) competitive	Prior to 1:00 p.m., EDST	Prior to 1:00 p.m., EDST.
Settlement (final payment due from institutions):		
(a) funds immediately available to the Treasury	Thursday, April 30, 1992	Thursday, April 30, 1992.
(b) readily-collectible check	Tuesday, April 28, 1992	Tuesday, April 28, 1992.

[FR Doc. 92-9140 Filed 4-15-92; 3:58 pm]
BILLING CODE 4810-40-M

[Department Circular—Public Debt Series—No. 13-92 and CUSIP No. 912827 E9 9]

Treasury Notes of April 30, 1994, Series Y-1994

Washington, April 16, 1992.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for United States securities, as described above and in the offering announcement, hereafter referred to as Notes. The Notes will be sold at auction, and bidding will be on a yield basis. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The issue date and maturity date of the Notes are stated in the offering announcement. The Notes will accrue interest from the issue date. Interest will be payable on a semiannual basis as described in the offering announcement through the date that the principal becomes payable. The Notes will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes will be issued only in book-entry form in the minimum and multiple amounts stated in the offering announcement. They will not be issued in registered definitive or in bearer form.

2.3. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the Treasury Direct Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2-86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239-1500. The closing times for the receipt of noncompetitive and competitive tenders are specified in the offering announcement. Noncompetitive tenders will be considered timely if postmarked (U.S. Postal Service cancellation date) no later than the day prior to the auction and received no later than close of business on the issue day.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is stated in the offering announcement, and larger bids must be in multiples of that amount.

3.3. Competitive bids must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. A single bidder, as defined in Treasury's single bidder guidelines contained in Attachment A to this circular, may submit bids at more than one yield. However, at any one yield, the Treasury will not recognize any amount tendered by a single bidder in excess of 35 percent of the public offering amount. A competitive bid by a single bidder at any one yield in excess of 35 percent of the public offering will be reduced to that amount.

3.4. Noncompetitive tenders do not specify a yield. A single bidder should not submit a noncompetitive tender for more than $5,000,000. A noncompetitive bid by a single bidder in excess of $5,000,000 will be reduced to that amount. A bidder, whether bidding directly or through a depository institution or a government securities broker/dealer, may not submit a noncompetitive bid for its own account in the same auction in which it is submitting a competitive bid for its own account. A bidder may not submit a noncompetitive bid if the bidder holds a position, in the Notes being auctioned, in "when-issued" trading, or in futures or forward contracts. A noncompetitive bidder may not enter into any agreement to purchase or sell or otherwise dispose of the security being auctioned, nor may it commit to sell the security prior to the designated closing time for receipt of competitive bids.

3.5. The following institutions may submit tenders for accounts of customers: Depository institutions, as described in section 19(b)(1)(A), excluding those institutions described in subparagraph (vii), of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)); and government securities broker/dealers that are registered with the Securities and Exchange Commission or noticed as government securities broker/dealers pursuant to section 15C(a)(1) of the Securities Exchange Act of 1934. Others are permitted to submit tenders only for their own account. A submitter, if bidding competitively for customers, must include a customer list with the tender giving, for each customer, the name of the customer and the amount bid. A separate tender and customer list should be submitted for each competitive yield. For noncompetitive bids, the customer list must provide, for each customer, the name of the customer and the amount bid. For mailed tenders, the customer list must be submitted with the tender. For other than mailed tenders, the customer list should accompany the tender. If the customer list is not submitted with the tender, information for the list must be complete and available for review by the deadline for submission of noncompetitive tenders. The customer list should be received by the Federal Reserve Bank on auction day. All competitive and noncompetitive bids submitted on behalf of trust estates must provide, for each trust estate, the name or title of the trustee(s), a reference to the document creating the trust with the date of execution, and the employer identification number of the trust. Customer bids may not be aggregated on the customer list. The customer list must include customers and customers of those customers, where applicable.

3.6. A competitive single bidder must report its net long position if the total of all its bids for the security being offered and its net position in the security equals or exceeds $2 billion, with the position to be determined as of one half-hour prior to the closing time for the receipt of competitive tenders. A net long position includes positions, in the security being auctioned, in "when-issued" trading, and in futures and forward contracts. Bidders who meet this reporting requirement and are customers of a depository institution or a government securities broker/dealer must report their positions through the institution submitting the bid on their behalf.

3.7. Tenders from bidders who are making payment by charge to a funds account at a Federal Reserve Bank and tenders from bidders who have an approved autocharge agreement on file at a Federal Reserve Bank will be received without deposit. In addition, tenders from States, and their political subdivisions or instrumentalities; public pension and retirement and other public

funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks will be received without deposit. Tenders from all others, including tenders submitted for Notes to be maintained on the book-entry records of the Department of the Treasury, must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.8 After the deadline for receipt of competitive tenders, there will be a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive bids will be accepted in full, and then competitive bids will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Bids at the highest accepted yield will be prorated if necessary. After the determination is made as to which bids are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive bids will pay the price equivalent to the weighted average yield of accepted competitive bids. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive bids received would absorb all or most of the offering, competitive bids will be accepted in an amount sufficient to provide a fair determination of the yield. Bids received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive bids.

3.9. No single bidder will be awarded securities in an amount exceeding 35 percent of the public offering. The determination of the maximum award to a single bidder will take into account the bidder's net long position, if the bidder has been obliged to report its position per the requirements outlined in section 3.6.

3.10. Notice of awards will be provided by a Federal Reserve Bank or Branch or the Bureau of the Public Debt to bidders who have submitted accepted competitive bids, whether for their own account or for the account of customers. Those submitting non-competitive bids will be notified only if the bid is not accepted in full, or when the price at the average yield is over par. No later than 12 noon local time on the day following the auction, the appropriate Federal Reserve Bank will notify each depository institution that has entered into an autocharge agreement with a bidder as to the amount to be charged to the institution's funds account at the Federal Reserve Bank on the issue date. Any customer that is awarded $500 million or more of securities must furnish, no later than 10 a.m. local time on the day following the auction, written confirmation of its bid to the Federal Reserve Bank where the bid was submitted. A depository institution or government securities broker/dealer submitting a bid for a customer is responsible for notifying its customer of this requirement if the customer is awarded $500 million or more of securities as a result of bids submitted by the depository institution or government securities broker/dealer.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all bids in whole or in part, to allot more or less than the amount of Notes specified in the offering announcement, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made timely at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted will be made by a charge to a funds account or pursuant to an approved autocharge agreement, as provided in section 3.7. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.7. must be made or completed on or before the issue date. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury notes or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors by the time stated in the offering announcement. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted may, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in Treasury Direct are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Note being purchased. In any such case, the tender form used to place the Notes allotted in Treasury Direct must be completed to show all information required thereon, or the Treasury Direct account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

6.4. Attachment A and the offering announcement are incorporated as part of this circular.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

Attachment A—Treasury's Single Bidder Guidelines for Bidders in all Treasury Security Auctions

The investor categories listed below define what constitutes a single bidder.

(1) *Bank Holding Companies and Subsidiaries—*

A bank holding company (includes the company and/or one or more of its subsidiaries, whether or not organized as separate entities under applicable law).

(2) *Banks and Branches—*

A parent bank (includes the parent and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(3) *Thrift Institutions and Branches—*

A thrift institution, such as a savings and loan association, credit union, savings bank, or other similar entity (includes the principal or parent office and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(4) *Corporations and Subsidiaries—*

A corporation (includes the corporation and/or one or more of its majority-owned subsidiaries, i.e., any subsidiary more than 50 percent of whose stock is owned by the parent corporation or by any other of its majority-owned subsidiaries).

(5) *Families—*

A married person (includes his or her spouse, and any unmarried adult children, having a common address and/or household).

Note: A minor child, as defined by the law of domicile, is *not* permitted to submit tenders individually, or jointly with an adult bidder. (A minor's parent acting as natural guardian is *not* recognized as a separate bidder.)

(6) *Partnerships—*

Each partnership (includes a partnership or individual partner(s), acting together or separately, who own the majority or controlling interest in other partnerships, corporations, or associations).

(7) *Guardians, Custodians, or other Fiduciaries—*

A guardian, custodian, or similar fiduciary, identified by (a) the name or title of the fiduciary, (b) reference to the document, court order, or other authority under which the fiduciary is acting, and (c) the taxpayer identifying number assigned to the estate.

(8) *Trusts—*

A trusts estate, which is identified by (a) the name or title of the trustee, (b) a reference to the document creating the trust, e.g., a trust indenture, with date of execution, or a will, and (c) the IRS employer identification number (not social security account number).

(9) *Political Subdivisions—*

(a) A state government (any of the 50 states and the District of Columbia).

(b) A unit of local government (any county, city, municipality, or township, or other unit of general government, as defined by the Bureau of the Census for statistical purposes, and includes any trust, investment, or other funds thereof).

(c) A commonwealth, territory, or possession.

(10) *Mutual Funds—*

A mutual fund (includes all funds that comprise it, whether or not separately administered).

(11) *Money Market Funds—*

A money market fund (includes all funds that have a common management).

(12) *Investment Agents/Money Managers—*

An individual, firm, or association that undertakes to service, invest, and/or manage funds for others.

(13) *Pension Funds—*

A pension fund (includes all funds that comprise it, whether or not separately administered).

Notes: The definitions do not reflect all bidder situations. "Single bidder" is not necessarily synonymous with "single entity".

Questions concerning the guidelines should be directed to the Office of Financing, Bureau of the Public Debt, Washington, DC 20239 (telephone 202/219–3350).

For Release at 2:30 p.m. April 15, 1992

Contact: Office of Financing 202/219–3350

Treasury to Auction 2-Year and 5-Year Notes Totaling $25,000 Million

The Treasury will auction $14,750 million of 2-year notes and $10,250 million of 5-year notes to refund $11,313 million of securities maturing April 30, 1992, and to raise about $13,675 million new cash. The $11,313 million of maturing securities are those held by the public, including $750 million currently held by Federal Reserve Banks as agents for foreign and international monetary authorities.

The $25,000 million is being offered to the public, and any amounts tendered by Federal Reserve Banks as agents for foreign and international monetary authorities will be added to that amount. Tenders for such accounts will be accepted at the average prices of accepted competitive tenders.

In addition to the public holdings, Federal Reserve Banks, for their own accounts, hold $1,484 million of the maturing securities that may be refunded by issuing additional amounts of the new securities at the average prices of accepted competitive tenders.

Details about each of the new securities are given in the attached highlights of the offerings and in the official offering circulars.

Attachment

Highlights of Treasury Offerings to the Public of 2-Year and 5-Year Notes to be Issued April 30, 1992

[April 15, 1992]

Amount Offered to the Public	$14,750 million	$10,250 million.
Description of Security:		
Term and type of security	2-year notes	5-year notes.
Series and CUSIP designation	Series Y-1994 (CUSIP No. 912827 E9 9)	Series L-1997. (CUSIP No. 912827 F2 3).
Maturity date	April 30, 1994	April 30, 1997.
Interest rate	To be determined based on the average of accepted bids.	To be determined based on the average of accepted bids.
Investment yield	To be determined at auction	To be determined at auction.
Premium or discount	To be determined after auction	To be determined after auction.
Interest payment dates	October 31 and April 30	October 31 and April 30.
Minimum denomination available	$5,000	$1,000.
Terms of Sale:		
Method of sale	Yield auction	Yield auction.
Competitive tenders	Must be expressed as an annual yield, with two decimals, e.g., 7.10%.	Must be expressed as an annual yield, with two decimals, e.g., 7.10%.
Noncompetitive tenders	Accepted in full at the average price up to $5,000,000.	Accepted in full at the average price up to $5,000,000.
Accrued interest payable by investor	None	None.
Key Dates:		
Receipt of tenders	Wednesday, April 22, 1992	Thursday, April 23, 1992.
(a) noncompetitive	Prior to 12:00 noon, EDST	Prior to 12:00 noon, EDST.
(b) competitive	Prior to 1:00 p.m., EDST	Prior to 1:00 p.m., EDST.
Settlement (final payment due from institutions):		
(a) funds immediately available to the Treasury	Thursday, April 30, 1992	Thursday, April 30, 1992.
(b) readily-collectible check	Tuesday, April 28, 1992	Tuesday, April 28, 1992.

[FR Doc. 92–9139 Filed 4–15–92; 3:57 pm]

BILLING CODE 4810–40–M

Fiscal Service

[Dept. Circ. 570, 1991—Rev., Supp. No. 24]

Surety Companies Acceptable on Federal Bonds Change of Name; Fidelity and Deposit Co.

Fidelity and Deposit Company, a Maryland corporation, has formally changed its name to Colonial American Casualty and Surety Company, effective January 1, 1992. The company was last listed as an acceptable surety on Federal bonds at 56 FR 30142, July 1, 1991.

Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1991 Revision, on page 30137 to reflect this change.

A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued effective January 1, 1992, under section 9304 to 9308, title 31, of the United States Code, to Colonial American Casualty and Surety Company, Baltimore, Maryland. This Certificate replaces the Certificate of Authority issued to the company under its former name. The underwriting limitation of $479,000 established for the company as of July 1, 1991, remains unchanged until the July 1, 1992, revision is published, unless revoked prior to that date. The Certificate is subject to subsequent annual renewal as long as the company remains qualified (31 CFR part 223). A list of qualified companies is published annually as of July 1, in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Surety Bond Branch, Funds Management Division, Financial Management Service, Department of the Treasury, Washington, DC 20227, telephone (202) 874–7102.

Dated: April 13, 1992.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 92–9027 Filed 4–17–92; 8:45 am]

BILLING CODE 4810–35–M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 76
Monday, April 20, 1992

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).

COMMISSION ON CIVIL RIGHTS

DATE AND TIME: Friday, April 24, 1992, 10:00 a.m.

PLACE: U.S. Commission on Civil Rights, 1121 Vermont Avenue, NW., Room 512, Washington, DC 20425.

STATUS: Telephonic Commission Meeting. Open to the Public.

April 24, 1992

I. Approval of Agenda
II. Approval of Minutes of March 16 Telephonic Meeting and March 27 Meeting
III. Announcements
IV. Appointments for the Kentucky Advisory Committee
V. Staff Director's Report
VI. Future Agenda Items

Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact Betty Edmiston, Administrative Services and Clearinghouse Division (202) 376-8105, (TDD 202-376-8116), at least five (5) working days before the scheduled date of the meeting.

CONTACT PERSON FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications (202) 376-8312.

Dated: April 15, 1992.

Emma Monroig,

Solicitor.

[FR Doc. 92-9261 Filed 4-16-92; 1:57 pm]

BILLING CODE 6335-01-M

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published April 9, 1992, 57 FR 12375.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: April 17, 1992, 9:00 a.m.

PLACE: Public Hearing Room, Suite 700, 625 Indiana Avenue, N.W., Washington, D.C.

STATUS: Open.

CHANGE IN THE MEETING: The meeting has been postponed until 9:00 a.m. on April 24, 1992.

MATTERS TO BE CONSIDERED: The Board will discuss and deliberate upon the safety issues related to the proposed restart of K-Reactor, Savannah River Site, South Carolina, including, but not limited to, consideration of tritiated water release from heat exchangers, safety rod latching mechanisms, and other operational readiness topics, that were to have been discussed at the meeting scheduled for April 17. The meeting has been postponed because the Board still has not received all the information necessary for a full consideration. In addition, the Board has scheduled a site visit to K-Reactor, Savannah River Site, for April 22, 1991, and wishes to defer consideration of the safety issues related to the proposed restart of K-Reactor until after gathering further information during the site visit.

CONTACT PERSON FOR MORE INFORMATION: Kenneth M. Pusateri or Carole J. Council, (202) 208-6400.

SUPPLEMENTARY INFORMATION: The Board specifically reserves its right to further schedule and otherwise regulate the course of the meeting, to recess, reconvene, postpone, or adjourn the meeting, and otherwise exercise its powers under the Atomic Energy Act of 1954, as amended.

Dated: April 16, 1992.

Kenneth M. Pusateri,

General Manager.

[FR Doc. 92-9167 Filed 4-16-92; 11:02 am]

BILLING CODE 6820-KD-M

LEGAL SERVICES CORPORATION

Board of Directors Meeting

TIME AND DATE: A meeting of the Board of Directors will be held on April 27, 1992. The meeting will commence at 12:00 p.m.

PLACE: The Chicago Marriott Hotel, 8535 West Higgins Road, Salon B, Chicago, Illinois 60631, (312) 693-4444.

STATUS OF MEETING: Open, except that a portion of the meeting will be closed pursuant to a majority vote of the Board of Directors to be taken prior to the meeting. At the closed session, the Board of Directors will consult with the Special Counsel to the Board regarding one new litigation matter to which the Corporation is a party. The closing will be authorized by the relevant sections of the Government in the Sunshine Act [5 U.S.C. Sections 552(b) (6) and (10)], and the corresponding regulation of the Legal Services Corporation [45 C.F.R. Sections 1622.5(e) and (h)]. The closing has been certified by the Corporation's General Counsel as authorized by the above-cited provisions of law. A copy of the General Counsel's certification is posted for public inspection at the Corporation's headquarters, located at 400 Virginia Avenue, S.W., Washington, D.C., 20024, in its three reception areas, and is otherwise available upon request.

MATTERS TO BE CONSIDERED:

OPEN SESSION:

1. Approval of Agenda.

CLOSED SESSION:

2. Consultation with Special Counsel to the Board of Directors Regarding One New Litigation Matter to which the Corporation is a Party.

OPEN SESSION:

(Resumed)

3. Consideration of Motion to Adjourn Meeting.

CONTACT PERSON FOR INFORMATION: Patricia D. Batie, (202) 863-1839.

Date Issued: April 16, 1992.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 92-9283 Filed 4-16-92; 3:13 pm]

BILLING CODE 7050-01-M

MERIT SYSTEMS PROTECTION BOARD

TIME AND DATE: 1:00 p.m., Monday, April 27, 1992.

PLACE: Eighth Floor, 1120 Vermont Avenue, NW., Washington, DC. 20419.

STATUS: The meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Internal personnel rules and practices, and matters the premature disclosure of which would likely frustrate implementation of a proposed agency activity.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Robert E. Taylor, Clerk of the Board, (202) 653-7200.

Dated: April 16, 1992.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 92-9203 Filed 4-16-92; 11:10 am]

BILLING CODE 7400-01-M

NATIONAL SCIENCE BOARD

DATE AND TIME:

May 1, 1992, 8:30 a.m., Closed Session
May 1, 1992, 9:10 a.m., Open Session

PLACE: National Science Foundation, 1800 G Street, NW, Rm. 540, Washington, DC 20550.

STATUS:

Part of this meeting will be open to the public

Part of this meeting will be closed to the public

MATTERS TO BE CONSIDERED:

Friday, May 1, 1992

CLOSED SESSION

(8:30 a.m.—9:10 a.m.)

1. Minutes—March 1992 Meeting.
2. Election of Officers.
3. Grants and Contracts.

Friday, May 1, 1992

OPEN SESSION

(9:10 a.m.—12:00 Noon)

4. Chairman's Report.
5. Minutes—March 1992 Meeting.
6. NSB Calendar of Meetings for 1993.
7. Director's Report.
8. Executive Committee Annual Report.
9. A Report on the Presidential Young Investigator Colloquium on Education.
10. Other Business.

Thomas Ubois,

Executive Officer.

[FR Doc. 92–9197 Filed 4–16–92; 11:01 am]

BILLING CODE 7555–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commisison will hold the following meeting during the week of April 20, 1992.

A closed meeting will be held on Tuesday, April 21, 1992, at 2:30 p.m.

Commisioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff nembers who have an interest in the matters may also be present.

The General counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioners Robers, as duty offer, voted to consider the items listed for the closed meeting in a closed session.

The subject mater of the closed meeting scheduled for Tuesday, April 21, 1992, at 2:30 p.m., will be:

Settlement of administrative proceedings of an enforcement nature.

Institution of administrative proceedings of an enforcement nature.

Institution of injunctive actions.

Settlement of injunctive actions.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Bruce Rosenblum at (202) 272–2300.

Dated: April 14, 1992.

Jonathan G. Katz,

Secretary.

[FR Doc. 92–9155 Filed 4–15–92; 4:24 pm]

BILLING CODE 8010–01–M

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1447]

TIME AND DATE: 10:00 a.m. (CDT), April 22, 1992.

PLACE: Paducah, Kentucky.

STATUS: Open.

AGENDA: Approval of minutes of meeting held on March 23, 1992.

ACTION ITEMS:

New Business

C—Power

C1. Payments to Distributors for Direct Load Control.

C2. Agreement Covering Arrangements for the Purchase of Power from BIT Manufacturing, Inc., by TVA.

C3. Modification of Growth Credit Program to Include Certain Customers with Demands Between 250 kW and 1,000 kW.

E—Real Property Transactions

E1. Sale of Permanent Easement Affecting 0.034 Acre of Tellico Reservoir Land in Monroe County, Tennessee, for a Remote Electronic Communications Cabinet Site.

E2. Proposed Deed Modification Affecting 0.014 Acre of Chickamauga Reservoir Land in Hamilton County, Tennessee.

F—Unclassified

F1. Filing of Condemnation Cases.

F2. Contract with ViaTech Services, Incorporated, to Provide Restart Field Support Service to Browns Ferry Nuclear Plant.

CONTACT PERSON FOR MORE INFORMATION: Alan Carmichael, Manager, Media Relations, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 479–4412.

Dated: April 15, 1992.

Edward S. Christenbury,

General Counsel and Secretary.

[FR Doc. 92–9170 Filed 4–16–92; 9:25 am]

BILLING CODE 8120–08–M

federal register

Monday
April 20, 1992

Part II

Department of Agriculture

Agricultural Stabilization and Conservation Service

Commodity Credit Corporation

7 CFR Parts 718, 719, 1413 and 1414

Food Agriculture, Conservation, and Trade Act Amendments of 1991; Interim Rule

DEPARTMENT OF AGRICULTURE

Agriculture Stabilization and Conservation Service

7 CFR Parts 718 and 719

Commodity Credit Corporation

7 CFR Parts 1413 and 1414

Food, Agriculture, Conservation, and Trade Act Amendments of 1991

AGENCY: Agricultural Stabilization and Conservation Service and Commodity Credit Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The statutory basis for the regulations set forth at 7 CFR parts 718, 719, 1413, and 1414, which relate to compliance, reconstitutions, feed grains, rice, upland and extra long staple cotton, wheat, integrated farm management, and related programs, was amended by the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (the 1991 Act), which was enacted on December 13, 1991. Accordingly, this interim rule sets forth at 7 CFR parts 718, 719, 1413, and 1414, the amendments to conform to the provisions of the 1991 Act, to correct certain technical provisions already established, to delete references to obsolete provisions, and to improve the operations of these programs for the 1992 and subsequent crop years.

DATES: Interim rule effective April 15, 1992. Comments must be received on or before May 20, 1992 in order to be assured of consideration.

ADDRESSES: Submit comments to: Director, Cotton, Grain, and Rice Price Support Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Bruce D. Hiatt, Agricultural Program Specialist, ASCS, P.O. Box 2415, Washington, DC 20013, (202) 690–2798.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under USDA procedures implementing Executive Order 12291 and Departmental Regulation 1512–1 and has been classified "nonmajor". It has been determined that this rule 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 governments, or geographical regions; or (3) significant adverse effects 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.

Final Regulatory Impact Analyses are being prepared with respect to the programs for the 1992 crops of wheat, feed grains, cotton, and rice. Copies of the analyses will be available to the public from Deputy Administrator of Policy Analysis, Agricultural Stabilization and Conservation Service, USDA, room 3741, South Agricultural Building, 14th and Independence, P.O. Box 2415, Washington, DC 20013.

The titles and numbers of the Federal assistance programs, as found in the Catalog of Federal Domestic Assistance, to which this interim rule applies are Cotton Production Stabilization-10.052; Feed Grain Production Stabilization-10.055; Wheat Production Stabilization-10.058; and Rice Production Program-10.065.

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule since neither the Agricultural Stabilization and Conservation Service ("ASCS") nor the Commodity Credit Corporation ("CCC") is required by 5 U.S.C. 553 or any other provision of the law to publish a notice of proposed rulemaking with respect to the subject matter to this rule.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

This program/activity is not subject to the provisions of Executive Order 12372 which requires 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).

The information collection requirements contained in these regulations have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. chapter 35, and assigned OMB No. 0560–0004 and 0560–0092.d

Public reporting burden for these collections is estimated to vary from 15 minutes to 45 minutes per response, including time for reviewing instructions, searching existing sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, room 404–W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB No. 0560–0004 and 0560–0092), Washington, DC 20503.

The 1991 Act was approved on December 13, 1991. Many producers had already planted crops prior to this date and other producers are currently making planting and financial decisions with respect to their 1992 crops. Accordingly, the provisions of this interim rule are effective upon publication in the **Federal Register**. However, comments are requested and will be considered when the final rule for these revisions is developed.

Background

The Food, Agriculture, Conservation, and Trade Act of 1990 ("the 1990 Act") amended various Acts including the Agricultural Adjustment Act of 1938, and the Agriculture Act of 1949 (the 1949 Act). The 1991 Act made technical corrections to these acts in order to correct errors and to otherwise improve the amendments made by the 1990 Act. This interim rule provides the amendments provided by the technical amendments and also makes minor editorial changes to correct errors in the final rule that was published on April 19, 1991.

Discussion of Changes

7 CFR Part 718—Determination of Acreage and Compliance

The regulations at 7 CFR part 718 contain the rules for farm acreage compliance, and related reporting and recordkeeping requirements. The following changes are contained in this interim rule:

Section 718.3 Definitions

The definition of "acreage maintenance inspection" is amended to include that an inspection of conserving use (CU) acreage for payment shall also be made to determine whether producers are continuing to maintain designated program acreages in accordance with program regulations.

The definition of "good faith determination" has been added, which means a determination made by the County committee or State committee that the operator made a good faith effort to fully comply with all program requirements.

The definition of "maintenance default" has been added, to mean a failure by the producer to properly maintain acreage designated as ACR, CRP, or CU for payment in a manner prescribed by the Deputy Administrator.

The definition of "standard payment reduction" has been added, which means a reduction applied to the

earnings of a crop or crops when an acreage is inaccurately reported or not maintained in a manner prescribed by the Deputy Administrator.

The definition of "variance" has been amended to include nonprogram crops.

Section 718.13 Denial of Program Benefits

This section has been revised to state that program benefits may be denied when a farm operator:

(1) Refuses to furnish reports or data necessary to determine eligibility for program benefits;

(2) Provides an inaccurate acreage report which the county committee or State committee deems was not made in good faith;

(3) Fails to maintain acreage designated as ACR, CRP, or CU for payment in a manner as required by the Deputy Administrator.

If the county committee or State committee determines that the producer failed to meet the necessary requirements for program participation, in addition to denial of program benefits, liquidated damages may also apply.

Section 718.22 Acreage Reports

Paragraph (a) is amended to clarify that acreage reports are required for all cropland on all farms that are eligible for any benefits.

Section 718.40 Tolerance and Variance Rules Applicability

Introductory text has been added to state that tolerance and variance is the amount by which the determined acreage may differ from the reported acreage and still be correctly reported. Permitted acreage, or for additional acreage designated to meet minimum requirements for program provisions.

Section 718.42 Skip Rows and Strip Crops

Paragraph (b) has been amended to include a technical correction to the skip row provisions for skip row cotton. Cotton producers who had an established practice of using 32 inch rows before the 1991 crop, have the option of considering the cotton as either solid planted or skip row.

Paragraph (c) has been amended to clarify what acreage is considered as the crop when the crop is planted in strips.

Paragraphs (d), (e), and (f) have been amended to change the width of strips from 60 inches to less than 64 inches.

7 CFR Part 719—Reconstitution of Farms, Allotments, Normal Crop Acreage and Preceding Year Planted Acreage

The regulations at 7 CFR 719.8 provide the rules for determining farms, allotments, quotas, bases, and acreages when reconstitution is made by division. Section 719.8(g) provides for the use of the "history method" on the basis of the acreage determined to be representative of the operations normally carried out on each tract * * *" This essentially means the acreages that have been planted on the tract in the prior years. With the changes in farm programs made by amendments in the Food, Agriculture, Conservation, and Trade Act of 1990, there are problems in applying this provision. Under these amendments, an acreage of a program crop may be credited as another program crop for purposes of determining future crop acreage bases. This "flex" acreage may be up to 25 percent of the crop acreage base. This creates problems in applying the 'history method" when a farm is reconstituted since there is no record of determining whether the 50 acres of wheat, for example, that was planted on a tract was considered as wheat or upland cotton for planted history purposes.

Because of these problems, § 719.8 is amended by redesignating paragraphs (i) through (l) as (j) through (m) and adding a new paragraph (i) to provide that owners and the county committee may agree to vary crop acreage bases by up to 20 percent when the history method was used and "flex" was used to protect bases in 1 or more of the prior years.

The issue has been raised as to whether tenants with a life estate are considered to be an "owner" with the right to use the designation by landowner method of dividing farms and for other program purposes. The definition of "owner" is revised to clarify that the term "owner" includes such tenants.

Questions have also been raised concerning the treatment of spouses who reside in community property States or who jointly own property. The definition of "owner" is clarified to provide that each such spouse is considered an owner in his or her own right. The signatures of both spouses will be required in any case in which an owner must agree to a program provision. In order to simplify the administration of programs by ASCS and CCC, to reduce the burden of paperwork, and recognize the integrity of families, a provision is added to the definition of "producer" that changes the rules for signatures when producers are married.

7 CFR Part 1413—Feed Grain, Rice, Upland and Extra Long Staple Cotton, Wheat and Related Programs

Section 1413.3 Definitions

The definition of approved "nonprogram crops (ANPC)" is amended to more clearly define the types of dry peas, which includes Austrian peas, wrinkled seed, green, yellow, and umatilla. The definition of "considered planted acreage" is also amended to include these varieties of dry peas.

Section 1413.5 Corn and Grain Sorghum Permitted Acreage Combinations

Section 1413.5 has been added because of the amendments contained in the 1991 Act to provide that with respect to the 1992 through 1995 crops of corn and grain sorghum, the permitted acreages of corn and grain sorghum for a farm shall be combined according to instructions issued by the Deputy Administrator. These amendments also provide that the sum of the acreage planted and considered planted to corn and grain sorghum for each year shall be prorated to corn and grain sorghum on the ratio of the crop acreage base for the individual crop of corn or grain sorghum, as applicable, to the sum of the crop acreages bases for corn and grain sorghum established on a farm for a crop year. The sum of the corn and grain sorghum payment acres for each year, as determined under § 1413.108, *Deficiency Payments*, shall be prorated to corn and grain sorghum based on the ratio of the maximum payment acres for the individual crop of corn and grain sorghum, as applicable, to the sum of the maximum payment acres for corn and grain sorghum for a farm established for each crop year. The provisions also provide that if one crop acreage base is participating in an acreage reduction program, the other crop acreage base must also be participating. These provisions do not affect crop acreage base calculations for corn and grain sorghum. Corn and grain sorghum crop acreage bases will be calculated as provided in § 1413.7, *Crop Acreage Bases*. For example;

A farm with a permitted acreage on corn of 190 acres and a permitted acreage on grain sorghum of 95 acres results in a combined permitted acreage of 285 acres. The producer may plant either corn, sorghum, or a combination of corn and grain sorghum. As a result of the combined permitted acreage, if corn is participating in an acreage reduction

program (ARP), the grain sorghum is also required to participate in ARP.

Program payments will be based on the ratio of each crop's maximum permitted acreage (MPA) to the total maximum permitted acreage. In this example, the corn MPA is 160 acres, and the grain sorghum MPA is 80 acres, with a total MPA of 240 acres. To calculate the corn MPA ratio the corn MPA of 160 acres would be divided by the total MPA of 240 acres which results in a ratio of 66.67 percent.

In this example, the producer planted 285 acres of corn and no grain sorghum. The total payment acreage is limited to 240 acres which is the total MPA. The 240 total payment acres would be multiplied times the MPA ration of 66.67 percent to arrive at the corn payment acreage of 160 acres. The total planted acreage in this example could be all corn, grain sorghum, or a combination of both and the corn payment acreage would still be 160 acres.

To calculate the sorghum payment acreage, subtract the corn payment acreage of 160 acres from the total payment acreage of 240 acres for a result of 80 acres.

Planted and considered planted credit for each crop will be based on the ratio of each crop's crop acreage base (CAB) to the total CAB's. In this example the corn CAB is 200 acres, the sorghum CAB is 100 acres and the total CAB's are 300 acres. Calculate the corn CAB by dividing the corn CAB of 200 acres by the total CAB's of 300 acres which results in a ratio of 66.67 percent. The total planted and considered planted credit for both crops is 300 acres.

Section 1413.6 Farm Program Payment Yields

Paragraph (a)(4)(i) is amended to clarify that the IAM for a farm shall not be changed for the 1991 through 1995 crop years. The IAM for a farm shall not exceed the irrigated cropland on the farm, except as provided by instructions issued by the Deputy Administrator. The farm IAM shall be allocated among program crops on the farm in accordance with instructions issued by the Deputy Administrator. The IAM shall be computed by CCC, at the producer's option, on the basis of either the 1988, 1989, or 1990 irrigated acreages on the farm. Paragraph (a)(4)(v), which pertained to corn and grain sorghum crop acreage base designations being made in accordance with § 1413.10(b), and provided for offsetting adjustments in the IAM's for corn and sorghum, has been removed.

Section 1413.7 Crop Acreage Bases

Paragraph (c)(1), which referred to the calculations of bases for 1991 crops of upland cotton and rise for producers planting such crops for the first time in 1989, and who did not participate in the 1990 acreage reduction program, has been removed.

Section 1413.10 Adjusting Crop Acreage Bases

Paragraph (b), which referred to the crop acreage base designation for corn and sorghum for 1991 only, has been removed. Paragraphs (c) and (d) have been redesignated (b) and (c), respectively, and new paragraph (d) has been added. Paragraph (d) provides that for the 1992 through 1995 crop years, county committees shall allow eligible producers of upland cotton or rice to increase individual crop acreage bases on the farm above the levels of base that would otherwise be established under § 1413.7, in order to restore the total of the crop acreage bases on the farm for the 1992 through 1995 crop years to the same level as the total of crop acreage bases on the farm for the 1990 cropyear. This paragraph also provides the meaning of eligible producer of upland cotton or rice, which means producers of upland cotton or rice whom the appropriate county committee determines was required to reduce one or more crop acreage bases on the farm during the 1991 crop year in order to comply with § 1413.7 and the change in calculation of cotton and rice crop acreage bases to a 3-year formula, and have participated in the price support program during the 1991 crop year and each subsequent crop year through the current crop year.

Section 1413.50 Contracting Procedures

Paragraph (a)(1), which includes provisions for producers entering into a contract with CCC, has been revised for clarity.

Paragraph (a)(5), which included provisions for dificiency payments for 1991 winter wheat planted in the fall of 1990 has been deleted.

New paragraph (a)(5) has been added to provide that all or any portion of the acreage otherwise required to a devoted to conservation uses as a condition for qualifying for payments that is devoted to an industrial, oilseed, or other crop may be subsequently planted during the same crop year to any crop described in § 1413.11, including sesame and crambe on "0/92" acreage. Planting soybeans as a subsequently planted crop shall be limited to farms with an established history of doublecropping soybeans following any other crop during at least 3 of the last 5 years.

All or any part of acreage otherwise required to be devoted to conservation uses under the "50/92" provisions as a condition for qualifying for payments under § 1413.101 may be devoted to sesame or crambe.

In order to receive payments under § 1413.101, producers shall be required to forego eligibility to receive price support loans under 7 CFR part 1421 for the crop of subsequently planted crop that is produced on the farm under this section.

Section 1413.54 Acreage Reduction Program Provisions

Paragraph (c)(2) has been amended to provide that CU for payment acreage under the "0/92" provisions of the 1991 through 1995 wheat and feed grains program may be planted to sunflowers, rapeseed, canola, safflower, flaxseed, and mustard seed (minor oilseeds), and sesame and crambe. Such acreage may be doublecropped with other minor oilseeds.

New paragraph (c)(3) has been added to provide that CU for payment acreage under the "50/92" provision of the 1991 through 1995 upland cotton and rice programs may be planted to sesame and crambe.

New paragraph (f) has been added to provide that black-eyed peas may be planted for harvest on upland cotton "50/92" acreage, providing the production of such commodity is for donation to a food bank or other similar institution. Planting of black-eyed peas shall be approved only if State committees have authorized vegetables as a locally approved cover for green manure.

Section 1413.61 Eligible Land

Paragraph (a) (1) and (2) are amended to provide eligibility provisions for the 1992 and subsequent crop years.

Paragraphs (b)(1) (iii) and (iv) have been amended to include terraces and sod waterways as eligible for designation as ACR, if they average at least 33 feet in width.

Paragraph(b)(2) (i) through (v), which contained exceptions to minimum size and width requirements for land designated as ACR, which was for 1991 only, has been removed.

Section 1413.62 Ineligible Land

Paragraph (e), which referred to land prohibited from being cropped under the Great Plains Conservation Program, has been removed.

Section 1413.63 Approved Cover Crops and Practices

Paragraph (a)(1) is amended to provide that producers participating in an acreage reduction program for a program crop shall be required to plant to, or maintain as, an annual or perennial cover 50 percent, of the ACR acreage (or more at the producer's option), but not exceeding 5 percent of the crop acreage base established for the crop.

Paragraph (c)(1) is amended to delete the requirement that the State committees shall consult with appropriate wildlife agencies and organizations and other interested groups to determine whether practices that further the goals of these organizations can be developed.

Paragraph (c)(4) is amended to provide that the State committee shall establish the final seeding date for planting of the cover and shall approve, after consulting the Soil Conservation Service State Conservationist regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion, appropriate crops planted or maintained as cover, including native grasses and legumes or other vegetation.

New paragraph (c)(5) has been added to provide that the State committee shall consult with the technical committee rather than the State Conservationist, regarding whether the crops or practices will sufficiently protect the land from weed and wind and water erosion, once such technical committee is established according to section 1261 of the Food Security Act of 1985.

New Paragraph (c)(6) has been added to provide that black-eyed peas may be planted for harvest on 50 percent of the required upland cotton ACR acreage, providing the production of such commodity is for donation to a food bank or similar institution. Planting of black-eyed peas shall be approved only if State committees have authorized vegetables as a locally approved cover for green manure.

Section 1413.72 Skip Rows.

The 1991 Act provided a technical revision with respect to skip row cotton. Accordingly, the minimum size and width requirements in § 1413.79(b) which generally apply to acreage designated as conserving use acreage do not apply to cotton skip rows.

Section 1413.79 Eligible CU for Payment Land

Paragraphs (b)(1)(iii) and (iv) are amended to include terraces and sod waterways as eligible for CU for payment designation, if they average at least 33 feet in width.

Paragraphs (b)(2) and (b)(3) are amended to clarify the eligibility requirements relative to CU for payment acreage, and paragraph (b)(1)(v) and paragraph (d) are removed which contained the exception to 1991 only of minimum size of 5.0 acres and width of 1.0 chain (66 feet).

Section 1413.108 Deficiency Payments

Paragraph (b)(1) has been amended to remove the reference to the 1991 winter wheat option, which applied to winter wheat planted in the fall of 1990 for harvest in 1991.

Section 1413.111 Division of Payments

Paragraph (b)(1), which referred to provisions for share and cash leases has been removed. *Cash lease or share lease:* A proposed rule on determining whether a lease was a cash lease or a share lease was printed in the **Federal Register** on August 14, 1991. This proposed rule was to amend the regulations set forth at 7 CFR 1413.111 to provide that for 1992 and subsequent years a lease will be considered a cash lease or share lease based on the following rules: (1) If the landowner/landlord receives only a sum certain cash payment, or a specified quantity of the crop the lease will be considered a cash lease. If the landowner receives only a specific share of the crop, or proceeds from a specified share of the crop, the lease will be considered a share lease. A lease that provides for a combination payment of cash and a share of the crop will be considered as a cash lease if it is determined the cash payments exceeds one-half of the landlord or landowner's expected return for the crop year, or the expected return from the share of the crop if the lease provides for the larger of a specified cash amount or a specified share of the crop. The lease will be considered a share lease if it is determined that a cash payment is equal to or less than one-half of the landowner or landlord's expected return for the crop year, or the expected return from the share of the crop if the lease provides for the larger of a specified cash amount or a specified share of the crop. This proposed rule provided a comment period of 30 days. Six timely filed comments and 5 late filed comments were received. The timely filed respondents included the following: 1 State Agricultural Conservation and Conservation Committee member, and 5 farm organizations. The late filed comments included 1 from a United States Senator, 3 from State ASC Committee members, and 1 farm organization. States responding were Arkansas, Louisiana, Mississippi, and Washington, DC. Of the commentors, 7 were opposed to the proposed rule and requested that the 1991 cash-share lease rules should apply. Five commentors were opposed to the proposed rule and suggested a variation to the rule. This proposed rule was never adopted as final. After considering these comments and after further review of this issue, this interim rule sets forth revisions with regard to a cash lease or a share lease.

Paragraph (b)(2) has been amended to provide that for the 1992 and subsequent crop years, producers will be required to provide a copy of their written lease to the county committees, or in the absence of a written lease, provide the conditions for any oral lease or agreement.

A lease will be considered a cash lease if the lessor receives only a sum certain cash payment, or a fixed quantity of the crop (cash, pounds, or bushels per acre). If the rental agreement contains provisions that require the payment of rent on the basis of the amount of crop produced or the proceeds derived from the crop, or the interest the producer may have had if the crop had been produced, the lease shall be considered a share lease.

If the lease provides for both a cash and a share of the crop or crop production, the county committee shall determine a normal cash lease by crop for the area. If a guaranteed production or cash lease payment is normal for the area for a cash lease, then the lease is considered a cash lease. If determined a cash lease then the landlord is not eligible for deficiency payments, the producer or landlord is not eligible for a commodity loan on the part of the crop as a guaranteed payment, and the landlord would not be eligible for disaster benefits. If the cash guaranty is less than a normal cash guaranty in the area, the lease shall be determined to be a share lease. For example:

Share lease: When the normal cash lease for the area is $40 per acre, and the lease provides for a guaranty of $15 per acre or ⅓ of the crop, this lease is considered a share lease because the cash guaranty is less than normal for the area.

Cash lease: When the normal cash lease for the area is $40 per acre, and the lease provides $10,000 ($40 per acre) plus ⅓ share of production greater than 110 bushels of corn per acre, the lease would be considered a cash lease because the cash guaranty is normal for the area. If it is determined that a cash lease landlord receives any part of the deficiency payment, or loan is received

on any production that belongs to the landlord it shall be considered a scheme or device.

Section 1413.150 Provisions relating to Tenants and Sharecroppers

Paragraph (a)(3) is amended to clarify the restrictions with regard to the landlord-tenant-sharecropper provisions. This provision does not allow for any lease, contract, agreement or understanding unfairly exacted or required by the operator or landlord to cause the tenant or sharecropper to pay to the landlord or operator any payments earned under the program, to change the status of any tenant or sharecropper so as to deprive the person of any payments or other right which the person would have had under the program, to reduce the size of the tenant's or sharecropper's unit, or to increase the rent to be paid by the tenant or decrease the share of the crop or its proceeds to be received by the sharecropper.

7 CFR Part 414—Integrated Farm Management Program Option

Section 1414.4 Definitions

The definition of "traditionally underplanted acreage" has been changed to mean the difference between the producer's crop acreage base and the sum of: (1) The acreage planted to the program crop; (2) approved as prevented planted; and (3) the part of the crop acreage base designated as ACR. The acreage shall never be less than zero, and is utilized only to the extent that such number of acres exceeds the number of acres resulting from the reduction of payment acres resulting from participation in § 1413.11. If a producer is utilizing the 0/92 or 50/92 provisions as set forth in § 1413.50, the term traditionally underplanted acreage means 8 percent of the producer's permitted acreage for such year.

Section 1414.6 Acreage Enrollment

Paragraph (a) is amended to provide that the total acreage enrolled in the program shall be limited to no less than 3,000,000 acres and no more than 5,000,000 acres of cropland during each of the calendar years 1991 through 1995.

List of Subjects

7 CFR Part 718

Acreage allotments, Marketing quotas, Reporting and recordkeeping requirements.

7 CFR Part 719

Acreage allotments, Marketing quotas, Reporting and recordkeeping requirements.

7 CFR Parts 1413 and 1414

Acreage allotments, Cotton, Disaster assistance, Feed grains, Price support programs, Reporting and recordkeeping requirements, Rice, Soil conservation, Wheat.

Accordingly, 7 CFR parts 718, 719, 1413, and 1414 are amended as follows:

PART 718—DETERMINATION OF ACREAGE AND COMPLIANCE

1. The authority citation for part 718 is revised to read as follows:

Authority: 7 U.S.C. 1373 and 1374; 15 U.S.C. 714b and 714c.

2. Section 718.2 is revised to read as follows:

§ 718.2 Applicability.

The provisions of this part apply to compliance determinations for the 1992 and subsequent crop years as authorized by the Agricultural Adjustment Act of 1938, as amended, and the Agricultural Act of 1949, as amended, and the Commodity Credit Corporation Charter Act, as amended, with respect to the programs administered by the Agricultural Stabilization and Conservation Service, ("ASCS"), through State and county Agricultural Stabilization and Conservation ("State and county committees") committees.

3. Section 718.3 is amended by revising the definitions of "acreage maintenance inspection", and "variance"; removing the definition of "measurement after planting"; and adding "good faith determination", "maintenance default", "measurement service after planting", "nonprogram crop", "participating program crop", and "standard payment reduction" to read as follows:

§ 718.3 Definitions.

(b) * * *

Acreage maintenance inspection. An inspection of conservation reserve program (CRP) acreage as defined in part 714 of this chapter, or acreage conservation reserve (ACR) or conserving use acreage for payment (CU for payment), made to determine whether producers are continuing to maintain designated program acreages in accordance with program regulations.

* * * * *

Good faith determination. A determination made by the County committee or State committee that the operator made a good faith effort to accurately report or maintain the acreage as required by applicable program regulations.

* * * * *

Maintenance default. A failure by the producer to properly maintain acreage designated as ACR, CRP, or CU for payment in a manner prescribed by the Deputy Administrator.

Measurement service after planting. Determining a crop or designated acreage after planting but before the farm operator files a report of acreage for the crop or land use.

Nonprogram crop. Any crop other than a program crop, ELS cotton, oilseed, industrial or other crop as determined in accordance with instructions issued by the Deputy Administrator.

* * * * *

Participating program crop. A crop of wheat, corn, grain sorghum, oats, barley, upland cotton, extra long staple cotton, or rice which a producer enrolls in an acreage reduction program as provided in part 1413 of this title.

* * * * *

Standard payment reduction. A reduction applied to the program benefits made available to a producer with respect to when an acreage is inaccurately reported or not maintained in a manner prescribed by the Deputy Administrator.

* * * * *

Variance. Administrative variance as it applies to marketing quota crops and participating program crops and tolerance as it applies to program crops, nonprogram crops, marketing quota crops, poundage quota crop, conserving use and ACR.

* * * * *

4. Section 718.10(c) is amended by revising the deviation for Georgia, to read as follows:

§ 718.10 State committee responsibilities.

(c) * * *

* * * * *

Georgia

Redetermination refund. One-tenth acre for tobacco.

* * * * *

5. Section 718.13 is revised to read as follows:

§ 781.13 Denial of program benefits.

(a) Program benefits may be denied when a farm operator:

(1) Refuses to furnish reports or data which are necessary to keep current the farm records located in the county office

or which are a requirement to obtain program benefits.

(2) Provides an inaccurate acreage report which the COC or STC deems was not made in good faith.

(3) Fails to maintain acreage designated as ACR, CRP, or CU for Payment in a manner as required by the Deputy Administrator.

(b) If the COC or STC determines that the operator failed to meet the necessary requirements for program participation, in addition to denial of program benefits, liquidated damages, as defined in part 1413 of this title, may apply.

6. Section 718.22 is amended by revising introductory text of paragraph (a) to read as follows:

§ 718.22 Acreage reports.

(a) To be eligible for any program benefits a report of acreage shall be required for all cropland on farms that produce an agricultural commodity that includes:

* * * * *

7. Section 718.40 is amended by revising the section heading, adding introductory text, and revising paragraphs (a), (b), and (c) to read as follows:

§ 718.40 Tolerance and variance rules applicability.

Tolerance and variance is the amount by which the determined acreage may differ from the reported acreage and still be considered correctly reported.

(a) Tolerance rules apply:

(1) For those acreages for which measurement service was not furnished.

(2) To those fields for which a staking and referencing was performed but such acreage was not planted according to those measurements.

(3) When a measurement service is not requested for:

(i) Acreage destroyed in excess of the maximum planted acreage,

(ii) Additional acreage designated to meet minimum requirements for program provisions.

(b) Tolerance rules do not apply:

(1) For official fields when the entire field is devoted to one crop or land use.

(2) For those fields for which staking and referencing was performed and such acreage was planted according to those measurements.

(3) When measurement after planting is furnished.

(4) To the adjusted acreage for farms using measurement after planting which have a determined acreage greater than the marketing quota crop allotment, maximum planted acreage, or an acreage less than the required ACR.

(c) Administrative variance is applicable to:

(1) Participating program crops that:

(i) Have total measurement service after planting, and

(ii) The measured acreage exceeds the maximum planted acreage by no more than the larger of 0.1 acre or 2 percent not to exceed 0.9 acre.

(2) All marketing quota crop acreages. Marketing quota crop acreages as determined in accordance with this part shall be deemed in compliance with the effective farm allotment or program requirement when determined acreage does not exceed the effective farm allotment by more than an administrative variance determined as follows:

(i) For all kinds of tobacco subject to marketing quotas, except dark air-cured and fire cured the larger of 0.1 acre or 2 percent of the allotment.

(ii) For dark air-cured and fire-cured tobacco, an acreage based on the effective acreage allotment as provided in the table as follows:

Effective acreage allotment is within this range—	Applicable administrative variance
0.01 to 0.99	0.01
1.00 to 1.49	0.02
1.50 to 1.99	0.03
2.00 to 2.49	0.04
2.50 to 2.99	0.05
3.00 to 3.49	0.06
3.50 to 3.99	0.07
4.00 to 4.49	0.08
4.50 and up	0.09

* * * * *

8. Section 718.42 is amended by revising the heading, and revising paragraphs (b), (c), (d), introductory text of (e), and (f) to read as follows:

§ 718.42 Skip rows and strip crops.

* * * * *

(b) The entire acreage of the field or subdivision shall be considered as devoted to the crop where the crop is planted in strips of two or more rows and the strips of idle land are less than 64 inches (approximately 8 links) wide, except where cotton is planted in skip row patterns:

(1) If the distance between the rows is 30 inches (approximately 3.8 links) the strips of the idle land are less than 60 inches wide, or

(2) If the distance between the rows is 32 inches and the strips of idle land are at least 60 inches but less than 64 inches, the producer has the option to consider the crop as either solid planted or skip row.

(c) If the strips of idle land are too wide to be classified as solid planted in accordance with paragraph (b) of this section, the acreage of the strips planted to the crop, including one-half the distance between the rows of the crop but not less than 15 inches (approximately 1.9 links) beyond the outside rows of the crop in each strip, shall be considered as devoted to the crop.

(d) When one crop is alternating with another crop, the entire acreage of the field or subdivision shall be considered as devoted to the crop being measured where such crop is planted in strips of one or more rows and the strips of the other crop are less than 64 inches (approximately 8 links).

(e) If strips of the alternating crop are too wide to be considered solid planted in accordance with paragraph (b) of this section, and if the alternating crop:

* * * * *

(f) When the crops are planted in single wide rows, the entire acreage of the field or subdivision shall be considered as devoted to the crop where the distance between the rows of such crop is less than 64 inches (approximately 8 links). If the distance between the rows of the crop is at least 64 inches (approximately 8 links), only 64 inches (approximately 8 links), in width for each row shall be considered as being devoted to the crop.

PART 719—RECONSTITUTION OF FARMS, ALLOTMENTS, NORMAL CROP ACREAGE AND PRECEDING YEAR PLANTED ACREAGE

9. The authority citation for part 719 continues to read as follows:

Authority: 7 U.S.C. 1375, 1378, 1379, 1461–1469 and 1801 note.

10. Section 719.2 is amended by revising the definitions of *owner* and *producer* to read as follows:

§ 719.2 Definitions.

* * * * *

Owner means a person who has legal ownership of farmland, including:

(1) A person who is buying farmland under a purchase agreement;

(2) Each spouse in community property States;

(3) Each spouse when the spouses own property jointly; and

(4) A person who has a life-estate in the property.

* * * * *

Producer means a person who, as owner, landlord, tenant, or sharecropper, is entitled to share in the crops available for marketing from the farm or in the proceeds thereof. However, if a producer is married, any program document may be signed by

either the producer or the producer's spouse unless the producer provides a written statement at the county office where the farm is administratively located reserving to the producer the right to sign such program documents.

* * * * *

11. Section 719.8 is amended by redesignating paragraphs (i) through (l) as (j) through (m), and adding a new paragraph (i) to read as follows:

§ 719.8 Rules for determining farms, allotments, quotas, bases, and acreages when reconstitution is made by division.

* * * * *

(i) *Variation in bases when history method is used.* Bases apportioned among the divided tracts pursuant to paragraph (g) of this section may be increased or decreased with respect to a tract by as much as 10 percent of the base determined under such paragraph if:

(1) The owners agree in writing, and

(2) The county committee determines the history method did not provide an equitable distribution considering available land, cultural operations, type of participation in annual acreage reduction programs, and changes in the type of farming conducted on the farm. Any increase in a base with respect to a tract pursuant to this paragraph shall be offset by a corresponding decrease for such base established with respect to the other tracts which constitute the farm.

* * * * *

PART 1413—FEED GRAIN, RICE, UPLAND AND EXTRA LONG STAPLE COTTON, WHEAT AND RELATED PROGRAMS

12. The authority citation for part 1413 continues to read as follows:

Authority: 7 U.S.C. 1308, 1308a, 1309, 1441–2, 1444–2, 1444f, 1445b–3a, 1461–1469; 15 U.S.C. 714b and 714c.

13. Section 1413.1 is amended by revising paragraph (a) to read as follows:

§ 1413.1 Applicability.

(a) The regulations in this part, which are applicable to the feed grain, rice, upland and extra long staple ("ELS") cotton, and wheat programs for the 1992 and subsequent year crops, set forth the terms and conditions under which producers of these commodities who enter into contracts with the Commodity Credit Corporation ("CCC") and comply with the contracts and the provisions of this part may qualify for program benefits.

* * * * *

14. Section 1413.3 is amended by revising the definitions of *approved nonprogram crops (ANPC)* and revising paragraph (2)(vii) of *considered planted acreage* to read as follows:

§ 1413.3 Definitions.

* * * * *

Approved nonprogram crops (ANPC) means specified crops of dry peas (Austrian peas, wrinkled, seed, green, yellow, and umatilla) and lentils, that producers are allowed to plant and harvest and receive planted and considered planted credit on up to 20 percent of wheat or feed grain crop acreage base, but not rice or upland cotton.

* * * * *

Considered planted acreage for a crop means the following:

* * * * *

(vii) Any acreage devoted to approved nonprogram crops (ANPC), not to exceed 20 percent of a wheat or feed grain crop acreage base, but not rice, ELS cotton, or upland cotton, if the acreage is planted to dry peas, (limited to Austrian peas, wrinkled, seed, green, yellow, and umatilla) and lentils.

* * * * *

15. New § 1413.5 has been added to read as follows:

§ 1413.5 Corn and grain sorghum permitted acreage combinations.

(a) With respect to the 1992 through 1995 crops of corn and grain sorghum, the permitted acreages of corn and grain sorghum for a farm shall be combined in accordance with instructions issued by the Deputy Administrator.

(b) The sum of the planted and considered planted acreage of corn and grain sorghum for each crop year shall be prorated to corn and grain sorghum based on the ratio of the crop acreage base for the individual crop of corn or grain sorghum, as applicable, to the sum of the crop acreage bases for corn and grain sorghum established for each crop year.

(c) The sum of the corn and grain sorghum payment acres for each year as determined in accordance with § 1413.108, shall be prorated to corn and grain sorghum based on the ratio of the maximum payment acreage for the individual crop of corn and grain sorghum, as applicable, to the sum of the maximum payment acreage for corn and grain sorghum established for each crop year.

16. Section 1413.6 is amended by revising the introductory text of paragraph (a)(4), revising paragraph (a)(4)(i), removing paragraph (a)(4)(v), and redesignating paragraphs (a)(4)(vi) and (a)(4)(vii) to (a)(4)(v) and (a)(4)(vi), respectively, and revising redesignated (a)(4)(vi), respectively, to read as follows:

§ 1413.6 Farm program payment yields.

(a) * * *

(4) If separate irrigated and nonirrigated farm program payment yields were established for the 1990 crop, the farm program payment yield for the 1992 through 1995 crops shall be determined by:

(i) Determining an irrigated acreage maximum (IAM) for the farm. This acreage represents the maximum acreage for which deficiency payments using the irrigated payment yield will be computed. Except as otherwise provided in this section, the IAM for the farm shall not be changed for the 1991 through 1995 crop years. The IAM for a farm shall not exceed the irrigated cropland on the farm except in accordance with instructions issued by the Deputy Administrator. The farm IAM shall be allocated among program crops with irrigated farm program payment yields on the farm in accordance with instructions issued by the Deputy Administrator. The IAM shall be computed by CCC, at the producer's option, on the basis of either 1988, 1989, or 1990 irrigated acreages on the farm.

* * * * *

(vi) The IAM for a farm may be appealed in accordance with § 1413.155 when it is first established for the farm if the farm had an irrigated farm program payment yield established for 1990.

* * * * *

17. Section 1413.7 is amended by revising the introductory text of paragraph (c) and paragraph (c)(1), to read as follows:

§ 1413.7 Crop acreage bases.

* * * * *

(c) For upland cotton and rice: (1) Except as provided in paragraphs (c)(2), (d), and (e) of this section, the crop acreage base shall be equal to the average of the acreages planted and considered planted to such crop for harvest on the farm in each of the 3 crop years preceding such crop year.

* * * * *

18. Section 1413.10 is amended by removing paragraph (b); redesignating paragraphs (c) and (d) as (b) and (c), respectively; and adding new paragraph (d) to read as follows:

§ 1413.10 Adjusting crop acreage bases.

* * * * *

(d) For the 1992 through 1995 crop years, producers of upland cotton or rice may increase individual crop acreage

bases on the farm above the levels that would otherwise be established under § 1413.7 in order to restore the total of the crop acreage bases on the farm for the 1992 through 1995 crop years to the same level as the total of crop acreage bases on the farm for the 1990 crop year, if the county committee determines:

(1) A producer of upland cotton or rice was required to reduce one or more individual crop acreage bases on the farm during the 1991 crop year in order to comply with § 1413.7(e) in establishing bases for upland cotton and rice; and

(2) The producers on the farm have participated in the production adjustment program during the 1991 crop year and each subsequent crop year through the current crop year;

(3) Producers affected by this method of calculation may request that the county committee adjust the rice and cotton crop acreage bases on a farm to the higher of the preceding 3-year average or the preceding 5-year average.

§ 1431.11 [Amended]

(19) In § 1413.11, paragraph (j) is removed.

(20) Section 1413.50 is amended by revising paragraphs (a)(1), (a)(4), and (a)(5), to read as follows:

§ 1413.50 Contracting procedures.

(a)(1) *Acreage reduction and paid land diversion programs.* Eligible producers may enter into a contract to participate with CCC by executing and submitting a contract to the county ASCS office where the records for the farm are maintained not later than a date specified in the announcement of the sign-up period for the acreage reduction and paid land diversion program.

* * * * *

(4) Producers may plant, subject to terms and conditions prescribed by CCC, all or any part of an acreage otherwise required to be devoted to conserving uses as a condition for receiving payments under the "0/92 or 50/92" provisions of paragraphs (a)(2) and (3) of this section, to any crop as may be authorized by CCC, including sesame and crambe on "0/92" acreage. Such list of authorized crops, if any, will be available in the county ASCS offices.

(5) All or any portion of the acreage otherwise required to be devoted to conservation uses under the "0/92" provisions as a condition of qualifying for payments under § 1413.101 that is devoted to an industrial oilseed, or other crop may be subsequently planted during the same crop year to any crop described under § 1413.11, in accordance with instructions issued by the Deputy Administrator.

(i) The planting of soybeans as such subsequently planted crop shall be limited to farms to having an established history of double cropping soybeans following any other crop in at least 3 of the preceding 5 years.

(ii) Producers shall to agree to forego eligibility to receive commodity price support loans and purchases under parts 1421 and 1427 of this chapter for the crop of the subsequently planted crop that is produced on a farm under this section.

(iii) All or any part of acreage otherwise required to be devoted to conservation uses under the "50/92" provisions as a condition for qualifying for payments under § 1413.101 may be devoted to sesame and crambe. In order to receive payments under § 1413.101, producers shall agree to forego eligibility to receive a price support loan under part 1421 of this chapter if such loans are made available by CCC for a crop of sesame or crambe produced on the farm.

* * * * *

21. Section 1413.54 is amended by revising paragraph (c)(2), redesignating paragraph (c)(3) as (c)(4) and revising it, and adding new paragraphs (c)(3) and (f) to read as follows:

§ 1413.54 Acreage reduction program provisions.

* * * * *

(c) * * *

(2) Acreage designated as CU for payment acreage under the "0/92" provisions of the 1992 through 1995 wheat and feed grains programs as provided in § 1413.50 may be planted to sunflowers, rapeseed, canola, safflower, flaxseed, and mustard seed ("minor oilseeds") and sesame and crambe. Such acreage may be doublecropped with other minor oilseeds, industrial or experimental crops, and other crops, except for any program crop or any fruit or vegetable crop. Soybeans may be doublecropped if the farm has an established history of doublecropping soybeans after any other crop in at least 3 of the preceding 5 years.

(3) Acreage designated as CU for payment under the "50/92" provisions of the 1992 through 1995 upland cotton and rice programs may be planted to sesame and crambe.

(4) Acreage designated as CU for payment acreage under the "0/92" and "50/92" provisions of the 1992 through 1995 wheat, feed grains, upland cotton, and rice programs as provided in § 1413.50 may not be planted to industrial, experimental, or other crops except as provided in paragraph (c)(2) of this section.

* * * * *

(f) With respect to the 1992 through 1995 crop years, production of black-eyed peas shall be allowed on upland cotton "50/92" acreage subject to the following restrictions:

(1) Production of such crop for harvest shall be approved only if State committees have authorized vegetables as a locally approved cover for green manure;

(2) Requests for planting black-eyed peas for harvest may be approved by county and State committees. In order for such request to be approved, producers must furnish a contract or similar agreement that specifies:

(i) The acreage to be harvested; and

(ii) The production shall be donated to a food bank or similar institution. Such agreement shall be signed by an representative of the food bank. In addition such representatives shall certify that the food bank received the commodity by notifying the county ASCS office in writing, and shall also certify that donations of black-eyed peas shall not be disposed of through cash sales.

* * * * *

22. Section 1413.61 is amended by revising paragraphs (a), (b)(1)(iii) and (iv), removing paragraph (b)(2), and redesignating paragraphs (b)(3) and (b)(4) as paragraphs (b)(2) and (b)(3), respectively, and revising them to read as follows:

§ 1413.61 Eligible Land.

(a) For 1992 and subsequent crop years, land designated as ACR acreage must:

(1) Meet the provisions of paragraph (b)(1) of this section, and

(2) Either of the provisions of paragraphs (b)(2) or (b)(3) of this section.

(b) * * *

(1) * * *

(iii) Contiguous and noncontiguous strips, including end rows, terraces, and sod waterways, that are part of an approved conservation plan, which do not meet the minimum size (5.0 acres) and width (1.0 chain, 66 feet) may be designated as ACR if they average at least 33 feet in width; and

(iv) Contiguous and noncontiguous strips, including end rows, terraces, and sod waterways, that are planted in a perennial cover and average at least 33 feet in width may be designated as ACR.

(2) Was devoted to a small grain, row crop, or other crop planted annually, in 1 of the last 5 years; or,

(3) Was cropland designated as ACR or CU for payment in any or all of the previous 5 years. Such cropland is eligible for ACR designation in the current crop year if the provisions of paragraph (b)(1) of this section are met.

§ 1413.62 [Amended]

23. In § 1413.62 paragraph (e) is removed, and paragraphs (f) through (h) are redesignated as paragraphs (e) through (g).

24. Section 1413.63 is amended by revising paragraphs (a)(1), (c)(1), and (c)(4) and adding a new paragraphs (c)(5) and (c)(6) to read as follows:

§ 1413.63 Approved cover crops and practices.

(a)(1) Producers participating in an acreage reduciton program for a program crop shall be required to plant to, or maintain as, an annual or perennial cover, 50 percent, but not exceeding 5 percent of the crop acreage base established for the crop, of the ACR acreage (or more at the producer's option) to an annual or perennial cover.

* * * * *

(c)* * *

(1) The county committee, in consultation with the district conservationist of the Soil Conservation Service ("SCS"), may recommend the cover crop or practice.

* * * * *

(4) The State committee shall establish the final seeding date for planting of the cover and shall approve, after consulting the Soil Conservation Service State Conservationist regarding whether the crops or practices will sufficiently protect the land from weeds and wind and water erosion, appropriate crops planted or maintained as cover, including, as appropriate, native grasses and legumes or other vegetation.

(5) The State committee shall consult with the technical committee rather than the Soil Conservaton Service State Conservationist, regarding whether crops or practices will sufficiently protect the land from weeds and wind and water erosion, once such technical committee is established pursuant to section 1261 of the Food Security Act of 1985

(6) With respect to the 1992 through 1995 crop years, production of black-eyed peas shall be allowed on 50 percent of the required upland cotton ACR subject to the following restrictions:

(i) Production of such crop for harvest shall be approved only if State committees have authorized vegetables as a locally approved cover for green manure;

(ii) Requests for planting black-eyed peas for harvest may be approved by county and State committees. In order for such request to be approved, producers must furnish a contract or similar agreement that specifies:

(A) The acreage to be harvested; and

(B) The production shall be donated to a food bank or similar institution. Such agreement shall be signed by an representative of the food bank. In addition such representative shall certify that the food bank received the commodity by notifying the county ASCS office in writing and shall also certify that donations of black-eyed peas shall not be disposed of through cash sales.

25. Section 1413.72 is amended by removing paragraph (c) and redesignating paragraph (d) as (c) and revising it to read as follows:

§ 1413.72 Skip rows.

* * * * *

(c) For 1992, the minimum size and width requirements in §1413.79(b) for CU for cotton do not apply.

26. Section 1413.79 is amended by removing paragraph (b)(1)(v), revising paragraphs (b)(1)(iii) and (iv), (b)(2), and (b)(3), and removing paragraph (d), to read as follows:

§ 1413.79 Eligible CU for payment land.

* * * * *

(b) * * *

(1) * * *

(iii) Contiguous and noncontiguous strips, including end rows, terraces, and sod waterways, that are part of an approved conservation plan, which do not meet the minimum size (5.0 acres) and width (1.0 chain, 66 feet) may be designated as CU for payment if they average at least 33 feet in width; and

(iv) Contiguous and noncontiguous strips, including end rows, terraces, and sod waterways, that are planted in perennial cover and average at least 33 feet in width may be designated as CU for payment.

(2) Was devoted to a small grain, row crop, or other crop planted annually, in 1 of the last 5 years; or

(3) Was cropland designated as CU for payment or ACR in any or all of the previous 5 years. Such land may be designated as CU for Payment in the current crop year if the requirements in paragraph (b)(1) (i) through (iv) of this section are met.

* * * * *

27. Section 1413.108 is amended by revising the introductory text of paragraphs (b)(1) and (b)(2) to read as follows:

§ 1413.108 Deficiency payments.

* * * * *

(b)(1) The deficiency payment rate for the 1991, 1992, and 1993 crops of wheat, feed grains, (except as provided for malting barley producers in accordance with § 1413.110), and rice, shall be the amount by which the established (target) price exceeds the higher of:

* * * * *

(2) The deficiency payment for the 1994 and 1995 crops of wheat, feed grains, and rice shall be the amount by which the established (target) price exceeds the higher of the:

* * * * *

28. Section 1413.111 is amended by removing and reserving paragraph (b)(1), and revising paragraphs (b)(2) to read as follows:

§ 1413.111 Division of payments.

* * * * *

(b)(1) [Reserved]

(2) For the 1992 and subsequent years:

(i) Producer's are required to provide a copy of their written lease to the county committee, and, in the absence of a written lease, must provide to the county committee the terms and conditions of any oral agreement or lease.

(ii) A lease will be considered a cash lease if the lessor receives only a sum certain cash payment, or a fixed quantity of the crop (for example, cash, pounds, or bushels per acre).

(iii) If a lease contains provisions that require the payment of rent on the basis of the amount of crop produced or the proceeds derived from the crop, or the interest such producer would have had if the crop had been produced, such agreement shall be considered to be share lease.

(iv) If a lease provides for both a cash and a share of the crop or production the county committee must determine a normal cash lease amount by crop for the area. If the guaranteed production or cash lease payment is equal to or exceeds the normal cash lease established by the county committee for the area, then the lease shall be considered to be a cash lease.

(v) If the lease is determined to be a cash lease then the landlord is not eligible to receive disaster or deficiency payments with respect to such part of the crop, and neither the producer nor the landlord is eligible to receive price support with respect to that part of the crop which is the guaranteed payment.

(vi) If the cash guaranty is less than the normal cash guaranty for the area,

the lease shall be determined to be a share lease.

* * * * *

29. Section 1413.150 is amended by revising the introductory text of paragraph (a)(3) to read as follows:

§ 1413.150 Provisions relating to tenants and sharecroppers.

(a) * * *

(3) There exists between the operator or landlord and any tenant or sharecropper, any lease, contract, agreement, or understanding required or unfairly exacted by the operator or landlord which was entered into in anticipation of participating in the program the effect of which is:

* * * * *

PART 1414—INTEGRATED FARM MANAGEMENT PROGRAM OPTION

30. The authority citation for 7 CFR part 1414 continues to read as follows:

Authority: 7 U.S.C. 5822.

31. In § 1414.4 the definition of "traditionally underplanted acreage" is revised to read as follows:

§ 1414.4 Definitions.

* * * * *

Traditionally underplanted acreage means the difference between the producer's crop acreage base and the total of the acreage planted to the program crop, approved as prevented planted, and the part of the crop acreage base subject to an acreage limitation program or Acreage Conservation Reserve. If the producer is utilizing the 0/92 or 50/92 provisions set forth in § 1413.50, traditionally underplanted acreage means 8 percent of the producer's permitted acreage for such year. The acreage shall never be less than zero, and is utilized only to the extent that such number exceeds the number of acres resulting from the reduction in payment acres because of the provisions in 7 CFR 1413.11.

32. Section 1414.6 is amended by revising paragraph (a) to read as follows:

§ 1414.6 Acreage enrollment.

(a) To the extent practicable, the total acreage enrolled in the program shall be limited to no less than 3,000,000 and no more than 5,000,000 acres of cropland during each of the calendar years 1991 through 1995.

* * * * *

Signed at Washington, DC, on April 13, 1992.

Keith D. Bjerke,

Administrator, Agricultural Stabilization and Conservation Service, Executive Vice-President, Commodity Credit Corporation.

[FR Doc. 92-8997 Filed 4-15-92; 12:22 pm]

BILLING CODE 3410-05-M

federal register

Monday,
April 20, 1992

Part III

Department of the Interior

Bureau of Indian Affairs

Tribal Consultation on Indian Education Topics; Notice

DEPARTMENT OF THE INTERIOR

Tribal Consultation on Indian Education Topics

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of tribal consultation meetings.

SUMMARY: Notice is hereby given that the Bureau of Indian Affairs (BIA) will conduct consultation meetings to obtain oral and written comments concerning potential issues in Indian education programs. The potential issues which will be set forth in a tribal consultation booklet to be issued prior to the meetings are as follows:

1. Fiscal Year (FY) 1995 BIA Education Budget Tribal Priorities.
2. Student Tuition—A Proposed Tuition Charge for students at Haskell Indian Junior College and Southwestern Indian Polytechnic Institute.
3. Indian School Equalization Program—Proposals to:
   A. Eliminate Formula Funding Weight Factors for the Intense Bilingual Education Program.
   B. Eliminate Formula Funding Weight Factors for the Intense Residential Guidance Program.
   C. Change Student Count Schedule and Process.
4. Advocacy Activities for Public School Students.
5. Adult Vocational Training—A Discussion Paper regarding OIEP assumption of program administration.
6. Academic and Dormitory Standards.

Dates/Locations

July 13, 15 & 17, 1992, for all locations listed below, except, Anchorage, AK which will be held May 29, 1992. Scheduling of an earlier date for the Alaska meeting is in response to requests of tribal participants at the January, 1992 meeting in Anchorage. All meetings will begin at 8 a.m. and continue until 3 p.m. (local time) on the dates scheduled.

Location	Local Contact	Telephone
May 29, 1992		
1. Alaska, Anchorage.	Robert Pringle	907/271-4115
July 13, 1992		
1. Nevada, Reno.	Fayetta Babby	916/978-4680
2. New Mexico, Albuquerque.	Val Cordova	505/966-3034
3. Wisconsin, Green Bay.	Betty Walker	612/373-1090
July 15, 1992		
1. Washington, Seattle.	Van Peters	503/230-5682
2. New Mexico, Gallup.	Larry Holman	505/786-6150
3. Oklahoma, Oklahoma City.	Jim Baker	918/687-2460
4. South Dakota, Aberdeen.	Jim Davis	701/477-6471
July 17, 1992		
1. Arizona, Phoenix.	Beverly Mestes	602/562-3557
2. Montana, Billings.	Larry Parker	406/657-6375
3. Tennessee, Nashville.	Lena Sanders	703/235-3233

Written comments concerning consultation meeting items must be received no later than September 4, 1992. Comments should be mailed to the Bureau of Indian Affairs, Office of Indian Education Programs, MS 3530 MIB, 1849 C. Street, NW., Washington, DC 20240, Attn: Mr. Edward Parisian; OR, may be hand delivered to Room 3512 at the same address.

FOR FURTHER INFORMATION CONTACT: Edward Parisian, Joe Christie or Jim Martin at the above address or call 202/208-6123, 208-6175, or 208-3550.

SUPPLEMENTARY INFORMATION: The meetings are a follow-up to similar twice-a-year meetings conducted by the BIA in 1990, 1991 and 1992. The purpose of the consultation is, as required by 25 U.S.C. 2010(b), to provide Indian tribes, school boards, parents, Indian organizations and other interested parties with an opportunity to comment on potential issues raised during previous consultation meetings or being considered by the BIA regarding Indian education programs. A consultation booklet for the July meetings is being distributed to Federally recognized Indian tribes, Bureau Area and Agency Office and Bureau-funded schools. The booklets will also be available from local contact persons and at each meeting.

Dated: April 13, 1992.

Eddie F. Brown,

Assistant Secretary—Indian Affairs

[FR Doc. 92-9069 Filed 4-17-92; 8:45 am]

BILLING CODE 4310-02-M

federal register

Monday,
April 20, 1992

Part IV

Department of the Interior

Bureau of Indian Affairs Indian Gaming; Notice

DEPARTMENT OF THE INTERIOR

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710 of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, is publishing the Tribal-State Gaming Compact of 1991 between the Lac Courte Oreilles Band of Lake Superior Chippewa Indians and the State of Wisconsin, which is considered approved, but only to the extent the compact is consistent with the provisions of the Indian Gaming Regulatory Act.

The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority has approved an Addendum to the Lac Courte Oreilles Band of Lake Superior Chippewa Indians and the State of Wisconsin Gaming Compact of 1991, executed on October 8, 1991.

SUPPLEMENTAL INFORMATION: Because of the expiration of the 45 days specified in 25 U.S.C. 2710(d)(8)(B) in which the Secretary could approve or disapprove this compact, the Lac Courte Oreilles Band of Lake Superior Chippewa Indians and the State of Wisconsin Gaming Compact of 1991, is considered approved as specified in 25 U.S.C. 2710(d)(8)(B) to the extent that it is consistent with the Indian Gaming Regulatory Act.

DATE: This action is effective April 20, 1992.

ADDRESS: Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior, MS/MIB 4603, 1849 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Joyce Grisham, Bureau of Indian Affairs, Washington, DC 20240, (202) 208–7445.

Dated: April 13, 1992.

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 92–9066 Filed 4–17–92; 8:45 am]

BILLING CODE 4310–02–M

federal register

Monday
April 20, 1992

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Prohibition Against Certain Flights Between the United States and Libya; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 26834; Special Federal Aviation Regulation (SFAR) No. 65]

RIN 2120-AE48

Prohibition Against Certain Flights Between the United States and Libya

AGENCY: Federal Aviation Administration (FAA), Department of Transportation, (DOT).

ACTION: Final rule.

SUMMARY: This action complies with the Order of the President of the United States to prohibit the takeoff from, landing in, or overflight of the territory of the United States by an aircraft on a flight to or from the territory of Libya, other than takeoffs, landings, or overflights expressly approved by a United Nations (UN) special committee. This action also prohibits the landing in, takeoff from, or overflight of the territory of the United States by any aircraft on a flight from or to any intermediate destination, if the flight's origin or ultimate destination is Libya. This action is taken to prevent an undue hazard to the aircraft that would be engaged in such a flight, as well as to persons involved in the flight, arising from international adherence to or enforcement of UN Security Council Resolution 748 (1992) mandating, *inter alia*, an embargo of most air traffic with Libya. Issuance of this rule implements and is fully consistent with UN Security Council Resolution 748.

DATES: *Effective date:* April 16, 1992. *Expiration date:* April 16, 1993.

FOR FURTHER INFORMATION CONTACT: Patricia R. Lane, Office of the Chief Counsel, AGC-230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone: (202) 267-3491.

SUPPLEMENTARY INFORMATION:

Availability of Document

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the number of this SFAR. Persons interested in being placed on a mailing list for future rules should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

Background

The Federal Aviation Administration (FAA) is responsible for the safety of flight in the United States and the safety of U.S.-registered aircraft throughout the world. Under section 103 of the Federal Aviation Act of 1958 (Act), as amended, the FAA is charged with the regulation of air commerce in a manner that best promotes safety and fulfills the requirements of national security. In addition, section 1102(a) of the Act requires that the FAA Administrator exercise his authority consistently with any treaty obligations of the United States. The United States is a party to the Charter of the United Nations (Charter) (59 Stat. 1031; 3 Bevans 1153). Articles 25 and 48 of that Charter require that Members of the United Nations carry out the decisions of the Security Council. Article 25 states: "[t]he Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter." Additionally, Article 48(1) states, in pertinent part: "[t]he action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all members of the United Nations * * *."

On December 21, 1988, an explosion destroyed Pan American Airlines (Pan Am) Flight 103 over Lockerbie, Scotland, killing 270 persons. The cause of the explosion was determined to be the detonation of a deliberately placed explosive device in the cargo hold of the aircraft. Investigations to find the persons responsible for the bombing were initiated immediately by, among others, the governments of the United States and the United Kingdom of Great Britain and Northern Ireland. In 1991, on the basis of these investigations, the two governments implicated officials of the government of Libya in the planning and execution of the bombing of Pan Am Flight 103. Libya has refused to cooperate in the investigation of the bombing and has furthermore refused extradition requests by the United States and the United Kingdom for two Libyan intelligence agents suspected of carrying out the attack. As a result of Libya's refusal to cooperate in this investigation and the investigation of another attack against a French airliner, the UN Security Council, on January 21, 1992, adopted Resolution 731. Resolution 731 deplores the lack of cooperation on behalf of the Libyan Government and urges Libya to respond to the requests of the other governments.

On March 31, 1992, acting under chapter VII of the UN Charter, the Security Council adopted Resolution 748 mandating an embargo of certain air traffic with Libya. Paragraph 4 of Resolution 748 requires all states to deny permission to any aircraft to take off from, land in, or overfly their territory if the aircraft is destined to land in or has taken off from Libyan territory. An exception is made for flights that have been approved on the grounds of urgent humanitarian need by a special Security Council committee established by paragraph 9 of the Resolution.

The United States Government fully expects that member states of the UN will take action to comply with UN Security Council Resolution 748. Such action would have the effect of denying overflight rights to aircraft travelling to or from Libyan territory. As a practical matter, most aircraft in common use do not travel from United States territory to Libya without an intermediate stop in a UN member state or passage through the airspace of a member state. Because such a routing would be affected by national overflight restrictions adopted pursuant to Resolution 748, the crew of a flight leaving U.S. territory for Libya could not be certain of a safe intermediate stopover point within the range of the aircraft. Nor could the crew be certain of the availability of alternate airports if weather or other conditions require the diversion or unplanned landing of the aircraft. As a result, the FAA believes that a flight from the United States to Libya during the effective period of Resolution 748 could not be planned with assurances that the aircraft would have safe primary and alternate landing points within the fuel range of the aircraft. There is substantial risk, therefore, that such a flight could not be conducted safely.

The United States Government has taken several earlier actions to restrict air transportation between the United States and Libya. On January 7, 1986, the President issued Executive Order 12543, which prohibits "[a]ny transaction by a United States person relating to transportation to or from Libya * * * or the sale in the United States by any person holding authority under the Federal Aviation Act of any transportation by air which includes any stop in Libya."

On January 30, 1986, the Secretary of Transportation issued Order 86-2-23, which implements Executive Order 12543 by amending all Department of Transportation (DOT) certificates issued under section 401 of the Federal Aviation Act, all permits issued under section 402 of the Act, and all exemptions from sections 401 and 402 accordingly.

In response to UN Resolution 748, the President issued Executive Order 12801 on April 15, 1992, which prohibits:

> the granting of permission to any aircraft to take off from, land in, or overfly the United States, if the aircraft, as part of the same flight or a continuation of that flight, is destined to land in or has taken off from the territory of Libya.

Executive Order 12801 cited the President's authority under the International Emergency Economic Powers Act, 50 U.S.C. 1701 *et seq.*, the National Emergencies Act, 50 U.S.C. 1601 *et. seq.*, section 1114 of the Federal Aviation Act of 1958, as amended, 49 U.S.C. app. 1514, section 301 of the United States Code, 3 U.S.C. 301, and section 5 of the United Nations Participation Act of 1945, as amended, 22 U.S.C. 287(c). This Act provides that:

> Notwithstanding the provisions of any other law, whenever the United States is called upon by the [UN] Security Council to apply measures which said Council has decided . . . to be employed to give effect to its decisions under [the United Nations] Charter, the President may, to the extent necessary to apply such measures, through any agency which he may designate, and under such orders, rules, or regulations as may be prescribed by him, investigate, regulate, or prohibit, in whole or in part, economic relations of rail, sea, [and] air . . . between any foreign country or to any national thereof or any person therein and the United States or any person subject to the jurisdiction thereof. . . .

Copies of the January 21 and March 31 UN Resolutions, Executive Orders 12543 and 12801, and DOT Order 86–2–23 have been placed in the docket for this rulemaking.

Temporary Restrictions on Flights Between the United States and Libya

On the basis of the above, and in support of the Executive Order of the President of the United States, I find that immediate action by the FAA is required to implement the Executive Order. Furthermore, after consultation with the Department of State, I find that the current circumstances, including the closure of airspace and landing sites in countries situated between the United States and Libya to aircraft destined to land in, or having taken off from, Libya, represent a hazard to any aircraft used for that purpose as well as to persons on board that aircraft. Accordingly, these circumstances further warrant immediate action by the FAA to maintain the safety of flight and meet obligations under international law. For these reasons, I also find that notice and public comment under 5 U.S.C. 553(b) are impracticable and contrary to the public interest. Further, I find that good cause exists for making this rule effective immediately upon issuance. I also find that this action is fully consistent with my obligations under section 1102(a) of the Federal Aviation Act to ensure that I exercise my duties consistently with the obligations of the United States under international agreements.

The rule contains an expiration date of April 16, 1993, but may be terminated sooner or extended if circumstances so warrant.

Regulatory Evaluation

The potential cost of this regulation is limited to the net revenue of commercial flights between the United States and Libya. However, revenue flights to Libya are currently prohibited by DOT Order 86–2–23. Accordingly, this action will impose no additional burden on those operators.

Benefits in the form of potential prevention of injury to persons and damage to property are not quantifiable and most likely would occur outside the United States. For these reasons, the costs and benefits of the regulation considered under DOT Regulatory Policies and Procedures are minimal, and a further regulatory evaluation will not be conducted.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96511), there are no requirements for information collection associated with this rule.

International Trade Impact Assessment

DOT Order 82–2–23 prohibits U.S. and foreign air carriers from engaging in the sale of air transportation to or from Libya. This SFAR does not impose any restrictions on commercial carriers beyond those imposed by the DOT Order. Therefore, the SFAR will not create a competitive advantage or disadvantage for foreign companies in the sale of aviation products or services in the United States, nor for domestic firms in the sale of aviation products or services in foreign countries.

Federalism Determination

The amendment set forth herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this regulation does not have federalism implications warranting the preparation of a Federalism Assessment.

Conclusion

For the reasons set forth above, the FAA has determined that this action is not a "major rule" under Executive Order 12291. This action is considered a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because revenue flights to Libya are already prohibited by DOT Order 86–2–23, the FAA certifies that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulation Flexibility Act.

List of Subjects in 14 CFR Part 91

Aircraft, Aviation safety, Libya.

The Amendment

For the reasons set forth above, the Federal Aviation Administration is amending 14 CFR part 91 as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

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

> **Authority:** 49 U.S.C. app. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 *et seq.*, E.O. 11514, 35 FR 4247, 3 CFR, 1966–1970 Comp., p. 902; 49 U.S.C. 106(g).

2. Special Federal Aviation Regulation (SFAR) No. 65 is added to read as follows:

Special Federal Aviation Regulation No. 65—Prohibition Against Certain Flights Between the United States and Libya

1. *Applicability.* Except as provided in paragraphs 3 and 4 of this Special Federal Aviation Regulation, this rule applies to all aircraft operations originating from, destined to land in, or overflying the territory of the United States.

2. *Special flight restrictions.* Except as provided in paragraph 3 of this SFAR—

(a) no person shall operate an aircraft or initiate a flight from any point in the United States to any point in Libya, or to any intermediate destination on a flight the ultimate destination of which is in Libya or which includes a landing at any point in Libya in its intended itinerary;

(b) no person shall operate an aircraft to any point in the United States from any point in Libya, or from any intermediate point of departure on a flight the origin of which is in Libya, or which includes a departure from any point in Libya in its intended itinerary; and

(c) no person shall operate an aircraft over the territory of the United States if that aircraft's flight itinerary includes any landing at or departure from any point in Libya.

3. *Permitted operations.* This SFAR shall not prohibit the takeoff or landing of an aircraft, the initiation of a flight, or the overflight of United States territory by an aircraft authorized to conduct such operations by the United States Government in consultation with the United Nations Security Council Committee established by UN Resolution 748 (1992).

4. *Emergency situations.* In an emergency that requires immediate decision and action for the safety of the flight, the pilot in command of an aircraft may deviate from this SFAR to the extent required by that emergency. Any deviation required by an emergency shall be reported to the Air Traffic Control Facility having jurisdiction as soon as possible.

5. *Expiration.* This Special Federal Aviation Regulation expires April 16, 1993

Issued in Washington, DC, on April 16, 1992.

Barry Lambert Harris,

Acting Administrator.

[FR Doc. 92-9201 Filed 4-16-92; 11:34 am]

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S.J. Res. 246/P.L. 102–269

To designate April 15, 1992 as "National Recycling Day". (Apr. 15, 1992; 106 Stat. 104; 2 pages) Price: $1.00

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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1, 2 (2 Reserved)	(869-017-00001-9)	$13.00	Jan. 1, 1992
3 (1990 Compilation and Parts 100 and 101)	(869-013-00002-1)	14.00	[1] Jan. 1, 1991
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[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1991. The CFR volume issued January 1, 1987, should be retained.

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